

STATE PERSONNEL BOARD CALENDAR



MARCH 9, 2004

SACRAMENTO, CALIFORNIA

State of California

Memorandum

DATE: February 27, 2004

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD -- Appeals Division

SUBJECT: Notice and Agenda for the March 9, 2004, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on March 9, 2004, at the offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the March 9, 2004, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, CA 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Notice and Agenda
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February 27, 2004

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

TAMARA LACEY
Secretariat's Office

Attachment

CALIFORNIA STATE PERSONNEL BOARD MEETING*
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

FULL BOARD MEETING AGENDA**

MARCH 9, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 9:00 - 9:30 1. ROLL CALL
2. REPORT OF THE EXECUTIVE OFFICER
- Report of Laura Aguilera
Interim Executive Officer
State Personnel Board
3. REPORT OF THE CHIEF COUNSEL
4. NEW BUSINESS
(Items may be raised by Board Members for
scheduling and discussion at future meet-
ings.)
5. REPORT ON LEGISLATION

* Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

** The Agenda for the Board can be obtained at the following Internet address: <http://www.spb.ca.gov/calendar.htm>

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March 9, 2004

- 9:30 - 10:00 6. ORAL ARGUMENT
Oral Argument in the matter of **RANDALL
DODSON, CASE NO. 03-1587**. Appeal from non-
punitive termination. Department of
Transportation.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 10:00 - 10:15 7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS,
AND OTHER APPEALS
Deliberations to consider matter submitted at
prior hearing. [Government Code Sections
11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 10:15 - 10:45 8. ORAL ARGUMENT
Oral Argument in the matter of **CYNTHIA
GEORGE, CASE NO. 03-2494**. Appeal from
suspension. Unemployment Insurance Appeals
Board.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 10:45 - 11:00 9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS,
AND OTHER APPEALS
Deliberations to consider matter submitted at
prior hearing. [Government Code Sections
11126(d), 18653.]

- 11:00 - 11:30 10. SELECTION ANALYST CERTIFICATE AWARDS
Awarded to the following recipients:
Becky Tietz, Bethany DeAngelis, Christina
Padilla-Perez, Diana Vandre, Elbia Jue,
Elizabeth Paus, Katrina Hollingworth, Katy
Fodchuk, Latrice Leslie, Leslie Harrison,
Lisa Jeffers, Marianne Hardin, Maureen
Grays, Nanci Loftin, Ranae Heffron, Revonna
Roper, Romer Cristobal, Rosalind Hyde and
Rosemarie Lopez.

- 11:30 - 1:00 LUNCH

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 1:00 - 1:30 11. ORAL ARGUMENT
Oral Argument in the matter of **DONALD HERMANS, CASE NO. 03-0384**. Appeal from dismissal. Department of Corrections.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 1:30 - 1:45 12. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 1:45 - 2:15 13. ORAL ARGUMENT
Oral Argument in the matter of **YVETTE MACK, CASE NO. 03-0453**. Appeal from 20 work days suspension. California State University.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 2:15 - 2:30 14. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 2:30 - 3:00 15. ORAL ARGUMENT
Oral Argument in the matter of **NANCY VALENTINO, CASE NO.03-0699**. Appeal from dismissal. Department of Developmental Services.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 3:00 - 3:15 16. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS,
AND OTHER APPEALS
Deliberations to consider matter submitted at
prior hearing. [Government Code Sections
11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

- 3:15 - 4:15 17. HEARING - Resolution to abolish eligible
lists created by the **Office of the Inspector
General** and to void two appointments.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 4:15 - 18. DELIBERATION ON ADVERSE ACTION, DISCRIMINA-
TION COMPLAINT, AND OTHER PROPOSED DECISIONS
SUBMITTED BY ADMINISTRATIVE LAW JUDGES
Deliberations on matters submitted at prior
hearing, on proposed decisions, petitions for
rehearing, rejected decisions, remanded
decisions, submitted decisions, and other
matters related to cases heard by
administrative law judges of the State
Personnel Board or by the Board itself.
[Government Code Sections 11126 (d), and
18653 (2).]
19. PENDING LITIGATION
Conference with legal counsel to confer with
and receive advice regarding pending litiga-
tion when discussion in open session would be
prejudicial. [Government Code Sections 11126
(e) (1), 18653.]

State Personnel Board (SPB) v. Department of
Personnel Administration (DPA)/
International Union of Operating Engineers
(IUOE et al. Sacramento County Superior Court
Case No. 01CS00109

Association of California State Attorneys
and Administrative Law Judges v.
DPA/California Department of Forestry

Employees Association (ASKA) CDF
Firefighters Court of Appeal, Third district
No. C034943
Sacramento County Superior Court No.
99CS03314)

IUOE v. SPB/Public Employee Relations Board
(PERB)
Unfair Practice Case No. SA-CE-1295-S

Connerly v. SPB

20. RECOMMENDATIONS TO THE LEGISLATURE
Deliberations on recommendations to the
Legislature. [Government Code Section 18653.]
21. RECOMMENDATIONS TO THE GOVERNOR
Deliberations on recommendations to the
Governor. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

On Adjournment:

22. DISCUSSION OF COMING BOARD MEETING SCHEDULE
OF MARCH 23, 2004, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS

23. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY
MINUTES OF FEBRUARY 25, 2004
24. ACTION ON SUBMITTED ITEMS
(See Agenda Page 22)
These items have been taken under submission
by the State Personnel Board at a prior
meeting and may be before the Board for a
vote at this meeting. This list does not
include evidentiary cases, as those cases
are listed separately by category on this
agenda under Evidentiary Cases.

25. EVIDENTIARY CASES

The Board Administrative Law Judges conducts Evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

DORYANNA ANDERSON-JOHNSON, CASE NO. 00-1687A

Appeal from denial of reasonable accommodation
Correctional Lieutenant
California Rehabilitation Center - Norco
Department of Corrections

TIMOTHY BOBITT, CASE NO. 02-2856

Appeal from suspension
Senior Special Agent in Charge
Department of Justice at Sacramento

RICHARD COELHO, CASE NO. 02-1796R

Appeal from constructive medical termination
Fish and Game Warden
Department of Fish and Game

FRANK GARCIA, CASE NO. 03-1906

Appeal from Dismissal
Caltrans Highway
Maintenance Worker
Department of Transportation

CYNTHIA GEORGE, CASE NOS. 02-4017 & 03-1058

Appeal from a two-week and a three-week suspension
Administrative Law Judge
Unemployment Insurance Appeals Board

THEODORE HUGHING, CASE NO. 03-0354
Appeal from Medical Termination
Food Service Supervisor I
Department of Developmental Services

MAMIE JONES, CASE NO. 02-4441
Appeal from ten-percent reduction
in salary for five months
Dispatcher Clerk with the
Department of Transportation

B. CASES PENDING

- Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

RANDALL DODSON, Case No. 03-1587
Appeal from non-punitive
termination
Caltrans Equipment Operator I
Department of Transportation

CYNTHIA GEORGE, CASE NO. 03-2494
Appeal from suspension
Administrative Law Judge I
Unemployment Insurance Appeals
Board

DONALD HERMANS, CASE NO. 03-0384
Appeal from dismissal
Correctional Officer
California State Prison - Lancaster
Department of Corrections

YVETTE MACK, CASE 03-0453
Appeal from 20-work-days suspension
Administrative Support Coordinator I
California State University -
Dominguez Hills.

NANCY VALENTINO, Case No. 03-0699
Appeal from dismissal
Psychiatric Technician
Department of Developmental
Services

C. CHIEF COUNSEL RESOLUTIONS

NONE

- Court Remands
These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations
These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions
These are ALJ proposed decisions submitted to the Board for the first time.

HELENE BAGLEY, CASE NO. 03-1336
Appeal from formal reprimand
Correctional Sergeant
California Institution for Men -
Chino
Department of Corrections

CARLOS MANCILLA, CASE NO. 03-0960
Appeal from 90-working-days
suspension
Correctional Officer

California State Prison - Lancaster
Department of Corrections
ROMAN PLATERO, CASE NO. 03-2704
Appeal from dismissal
Correctional Officer
California State Prison - Imperial
Department of Corrections

CARL SCHOOSS, CASE NO. 03-0693
Appeal from official reprimand
Program Representative I
Department of Consumer Affairs

KIMBERLY TAYLOR, CASE NOS. 02-1293
AND 02-3645
Appeal from sixty-day suspension
and dismissal
Correctional Officer
California State Prison - San
Quentin
Department of Corrections

- Proposed Decisions Taken Under
Submission At Prior Meeting
These are ALJ proposed decisions
taken under submission at a prior
Board meeting, for lack of majority
vote or other reason.

NONE

- Proposed Decisions After Board
Remand

NONE

- Proposed Decisions After SPB
Arbitration

NONE

E. PETITIONS FOR REHEARING

CHIN CHOO, CASE NO. 03-1981P
Appeal from formal reprimand
Chief Psychiatrist
California Institution for Women -
Corona
Department of Corrections
Petition for rehearing filed by
appellant to be granted or denied

PHILLIP CONNELLY, CASE NO. 03-0632P
Appeal from dismissal
Fraud Investigator
Department of Health Services
Petition for rehearing filed by
appellant to be granted or denied

SHAWN DONAHUE, CASE NO. 03-1613
Appeal from five-percent reduction in
Salary for six-months
Correctional Captain
California State Prison - San Quentin
Department of Corrections
Petition for rehearing filed by
respondent to be granted or denied

FRANK JAFOLLA, CASE NO. 03-2297
Appeal from dismissal
Eligibility Worker
Department of Social Services
Petition for rehearing filed by
appellant to be granted or denied

DONALD KUNKEL, CASE NO. 03-1315P
Appeal from suspension
Caltrans Equipment Operator II
Department of Transportation
Petition for rehearing filed by
appellant to be granted or denied

CARMEN MILLET, CASE NO. 03-2252
Appeal from Modified five-percent
reduction in salary for six months
to a formal reprimand
Psychiatric Technician
Department of Developmental Services
Petition for rehearing filed by
appellant to be granted or denied

WENDELL POLK, CASE NO. 03-1804P
Appeal from Rule 282 Separation for
Cause
Limited-Term Psychiatric Technician
Assistant
Department of Mental Health
Petition for rehearing filed by
appellant to be granted or denied

- ALJ Proposed Decisions Adopted By
The Board
The Board will vote to grant or
deny a petition for rehearing filed
by one or both parties, regarding a
case already decided by the Board.
- Whistleblower Notice of Findings
The Board will vote to grant or
deny a petition for rehearing filed
by one or both parties, regarding a
Notice of Findings issued by the
Executive Officer under Government
Code, section 19682 et seq. and
Title 2, California Code of
Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of
transcripts, briefs, or the setting of
oral argument before the Board.

ANDREW CIRNER, CASE NO. 03-2241E
Appeal from denial of request for
reasonable accommodation
Senior Psychiatric Technician
Department of Mental Health

ROSIE L. DASHIELL, CASE NO. 03-2279
Appeal from dismissal
Public Safety Dispatcher I
California Highway Patrol

RANDALL DODSON, Case No. 03-1587
Appeal from non-punitive termination
Caltrans Equipment Operator I
Department of Transportation

RAYMOND ERNANDEZ, CASE NO. 01-4251
Appeal from five-percent reduction in
salary for six months
Correctional Officer
California Institution for Men - Chino
Department of Corrections

KEVIN FRAZIER, CASE NO. 03-0736
Appeal from a one-step reduction in
salary for six months
Correctional Officer
California State Prison, San Quentin
Department of Corrections

SHANNON FROEMING, CASE NO. 03-2871E
Appeal from denial of request for
reasonable accommodation
Employment Program Representative
Employment Development Department

CYNTHIA GEORGE, CASE NO. 03-2494
Appeal from suspension
Administrative Law Judge I
Unemployment Insurance Appeals Board

DONALD HERMANS, CASE NO. 03-0384
Appeal from dismissal
Correctional Officer
California State Prison - Lancaster
Department of Corrections

MARY HUTTNER, CASE NO. 02-1690
Appeal from demotion
Staff Services Manager I to the
position of Associate Health Program
Advisor (top step)
Department of Health Services

CONNIE JOHNSON, CASE NO. 03-2620
Appeal from 30 calendar days suspension
Employment Program Representative
Employment Development Department

PAUL H. KEMP, Case No. 01-2841
Appeal from dismissal
Teacher Assistant - Youth Correctional
Reception Center and Clinic - Sacramento
Department of the Youth Authority

JENNIFER KILL, CASE NO. 02-2164B
Appeal for determination of back salary,
benefits and interest
Supervising Cook
California Correctional Institution -
Tehachapi
Department of Corrections

YVETTE MACK, CASE 03-0453
Appeal from 20-work-days suspension
Administrative Support Coordinator I
California State University - Dominguez
Hills.

NEIL MADDEN, CASE NO. 03- 1682
Appeal from five-percent reduction
in salary for three months
Correctional Officer
Centinela State Prison - Imperial
Department of Corrections

DONNA MARTINEZ, CASE NO. 03-2232
Appeal from dismissal
Material & Stores Supervisor I
Central California Women's Facility,
Department of Corrections

RAY MARTINEZ, CASE NO. 03-3344
Appeal from dismissal
Correctional Officer
Substance Abuse Treatment Facility -
Corcoran
Department of Corrections

MARGARET A. MEJIA, CASE NO. 03-1848
Appeal from dismissal
Psychiatric Technician (Safety)

Department of Mental Health
CHRISTOPHER MIRAMONTES, CASE NO. 03-2299
Appeal from five-percent reduction in
salary for six months
Special Agent
Department of Corrections

VIRGINIA PARKER, CASE NO. 03-0325
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison - Blythe
Department of Corrections

NANCY SEARS, CASE NO. 02-2444
Appeal from two-step reduction in
salary for 12 months and transfer/
reassignment
Parole Agent I (Adult Parole)
Department of Corrections - Sacramento

ELANGO VAN SITTRAMBARAM, CASE NO. 03-2401
Appeal from suspension for six-months
Student Administration Technical
Programmer/Analyst
California State University - Long Beach

NANCY VALENTINO, Case No. 03-0699
Appeal from dismissal
Psychiatric Technician
Department of Developmental Services

ALICE VAN-THU, CASE NO. 03-0413
Appeal from automatic resignation
Administrative Support Coordinator I
California State University

PHUONG VU, CASE NO. 03-1145
Appeal from dismissal
Transportation Engineer (Civil)
Department of Transportation

BOBBY WANG, CASE NO. 02-2684
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles

BEVERLY WILSON, CASE NO. 03-1150A
Appeal from dismissal
Administrative Support Assistant II

California State University

26. RESOLUTION EXTENDING TIME UNDER GOVERNMENT
CODE SECTION 18671.1 EXTENSION
(See Agenda Page 25)

27. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

TUTU AUJLA, CASE NO. 03-0773
Classification: Correctional Officer
Department of Corrections

GEORGE BRISCO, CASE NO. 03-1033
Classification: Correctional Officer
Department of Corrections

IAN CRISTOBAL CRUZ, CASE NO. 03-1099
Classification: Correctional Officer
Department of Corrections

CHARLES DIEHL, CASE NO. 03-1034
Classification: Correctional Officer
Department of Corrections

YESENIA HERNANDEZ, CASE NO. 03-1053
Classification: Correctional Officer
Department of Corrections

ZELMA MCLEOD, CASE NO. 03-1742
Classification: Correctional Officer
Department of Corrections

WILLIE PUCKETT, CASE NO. 03-1046
Classification: Correctional Officer
Department of Corrections

JAMES ROBINSON, CASE NO. 03-1084
Classification: Correctional Officer

Department of Corrections
MICHAEL RUBIO, CASE NO. 03-1898
Classification: Correctional Officer
Department of Corrections

BOGDAN TOMA, CASE NO. 03-0928
Classification: Correctional Officer
Department of Corrections

CINDY WALKER, CASE NO. 03-0157
Classification: Youth Correctional
Officer
California Youth Authority

DEREK YOKLEY, CASE NO. 03-3460
Classification: Cadet, CHP
California Highway Patrol

B. MEDICAL AND PSYCHOLOGICAL SCREENING
APPEALS

Cases heard by a Staff Hearing Panel
comprised of a managerial staff member of
the State Personnel Board and a medical
professional. The Board will be
presented recommendations by a Hearing
Panel on each appeal.

VERONICA COBB, CASE NO. 03-2294
Classification: Correctional Officer
Department of Corrections

ELISA D. RAMOS, CASE NO. 03-1667
Classification: Janitor
Department of General Services

MOLLIE REED, CASE NO. 02-1208
Classification: Public Safety Dispatcher
II, CHP
California Highway Patrol

KIM VARGO, CASE NO. 03-2440
Classification: Correctional Officer
Department of Corrections

C. EXAMINATION APPEALS

MINIMUM QUALIFICATIONS - NONE

MERIT ISSUE COMPLAINTS - NONE

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

(Exam Case)

STEFAN GALLOWAY, CASE NO 03-1291
Classification: Correctional Officer
Department of Corrections

D. RULE 212 OUT-OF-CLASS APPEALS - NONE

VOIDED APPOINTMENT APPEALS - NONE

RULE 211 APPEALS - NONE

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

E. REQUEST TO FILE CHARGES CASES - NONE

PETITIONS FOR REHEARING CASES - NONE

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

ROBERT GARCIA, CASE NO. 04-0023
Classification: Correctional Officer
Department of Corrections

NORMAN MARTINEZ, CASE NO. 04-0020
Classification: Correctional Officer
Department of Corrections

28. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act

(Government Code Section 18500 et seq.) and Article VII, California Constitution.

Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. CHEMIST RANGE A, CHEMIST RANGE B, CHEMIST RANGE C, STAFF CHEMIST AND SUPERVISING CHEMIST

The Department of Personnel Administration proposes establishing the Chemist Series Specification which will consist of the above. Each class within the proposed Chemist Series specification will have a 12-month probationary period, the outside MQ patterns for the Staff Chemist and Supervising Chemist will be brought into alignment to create an equitable promotional pattern for both external and internal candidates, and Alternative Range Criteria 436 will be established. In addition Alternative Range Criteria 311 and the following class specifications are proposed to be abolished; Agricultural Chemist Series, Junior Chemist, Petroleum Products Chemist Series, Public Health Chemist Series, Supervising Chemist, Bureau of Home Furnishings, and Textile Chemist I and II classes. Incumbents in these classes will be reallocated to the new Chemist class series.

29. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

NONE

30. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of

the Department of Personnel Administration, the Personnel Resources and Innovation Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION
NONE.

B. EXECUTIVE OFFICER DECISIONS REGARDING
REQUESTS TO ESTABLISH NEW CEA POSITIONS

CHIEF, EMERGENCY PREPAREDNESS OFFICE
The Department of Health Services has withdrawn their request to establish the above position to the CEA category effective February 19, 2004.

ASSISTANT DIRECTOR, CULTURAL &
HISTORICAL ENDOWMENT
The California State Library's request to establish the above position to the

CEA category has been approved effective February 9, 2004.

DIRECTOR, DATA MANAGEMENT DIVISION
The Department of Education's request to establish the above position to the CEA category has been approved effective February 4, 2004.

CHIEF, DIVISION OF ADMINISTRATION
The Department of Conservation's request to establish the above position to the CEA category has been approved effective February 9, 2004.

STANFORD MANSION MANAGER
The Department of Parks and Recreation's request to establish the above position to the CEA category has been disapproved effective February 9, 2004.

31. WRITTEN STAFF REPORT FOR BOARD
INFORMATION

NONE

32. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).
2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).
3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).
4. PSC NO. 03-04
Appeal of the California Department of Education and McGeorge School of Law from the Executive Officer's April 30, 2003, disapproval of a contract for special education mediation conferences and due process hearings. (Hearing held October 7, 2003).

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

**CALIFORNIA STATE PERSONNEL BOARD**

GRAY DAVIS, Governor

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

Cal. 3/9/04

**TO: Members
State Personnel Board**

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

There is no written legislative report at this time. I will give a verbal presentation on any legislative action that has taken place that will be of interest to the Board.

Please contact me directly should you have any questions or comments regarding any bills in which you may have an interest. I can be reached at (916) 653-0453.


Sherry Hicks
Director of Legislation

TO: STATE PERSONNEL BOARD

FROM: DAPHNE BALDWIN, Manager, Policy Division
CAROL ONG, Manager, Policy Development

REVIEWED BY: JOAN ALLISON, Acting Chief
Policy Division

SUBJECT: PROPOSAL TO ABOLISH THE DEPUTY INSPECTOR GENERAL;
DEPUTY INSPECTOR GENERAL, SENIOR; AND DEPUTY
INSPECTOR GENERAL, IN-CHARGE ELIGIBLE LISTS; AND TO
VOID APPOINTMENTS MADE FROM THE DEPUTY INSPECTOR
GENERAL, IN-CHARGE ELIGIBLE LIST

REASON FOR HEARING

SPB staff is recommending that three eligible lists created from promotional examinations given by the Office of the Inspector General (OIG) be abolished and that two appointments made from one of those lists be voided. This hearing is to allow the Board to hear from OIG, affected employees and interested members of the public before reaching a final decision on staff's recommendation.

BACKGROUND

In July 2003, OIG was notified that its budget was scheduled to be reduced by approximately 70% and that a large number of OIG employees, the vast majority of whom were in Deputy Inspector General (DIG) classifications, would be subject to lay-off if they did not first obtain employment with other state agencies.

Most of OIG's employees in the DIG classifications had transfer appointments, and not list, appointments, in order to enhance those employees' opportunities for further transfer appointments into different classifications in other state agencies, OIG decided to conduct promotional examinations for the following classifications: DIG; DIG, Senior; and DIG, In Charge. In an e-mail to an Associate DIG (ADIG) dated August 11, 2003, OIG's personnel analyst explained the purpose for the examinations as follows:

1. The purpose of these promotional exams is to afford the opportunity to individuals serving an appointment in a class to gain a "list" appointment to the class. Many individuals within our agency were appointed to the class for which they are an incumbent by virtue of a lateral transfer. To gain a list appointment to the class may very well afford these folks the chance for a wider variety of options to move elsewhere.

2. For those of you who are ADIGs, there is no anticipated benefit to compete. The agency is in no position to offer promotions (ADIG to DIG, for example). The purpose of all of this is to let DIGs get list appointments to DIG, DIG, Senior to gain list appointments to DIG, Senior, etc.

OIG conducted the promotional examinations during August 2003. Fifteen OIG employees took the DIG examination, ten of whom already had permanent status in that classification as a result of transfer appointments. Eleven OIG employees took the DIG, Senior examination, three of whom already had permanent status in that classification as a result of transfer appointments. Three OIG employees took the DIG, In-Charge examination, two of whom already had permanent status in that classification as a result of transfer appointments.

In September 2003, after receiving a complaint about the examinations, SPB staff initiated an investigation and froze the eligible lists; thereby, prohibiting OIG from making any further appointments from the lists until after the investigation was completed. Before SPB staff froze the DIG, In-Charge eligible list, OIG had made two appointments from that list.

On December 5, 2003, SPB staff issued a report, finding, among other things, that OIG had administered the promotional examinations not to find well-qualified candidates to fill vacant positions, but, instead, to provide employees already in the tested classifications with list appointments so that they would be better able to obtain future transfers to different classifications in other state agencies, and thereby circumvent Board Rule § 435, which prohibits consecutive transfers.¹ (A copy of the staff report is attached hereto as Attachment 1.)²

¹ Title 2, California Code of Regulations § 435 provides:

Consecutive transfers shall not be permitted when their combined result would be inconsistent with the provisions of this article or Government Code Section 19050.4.

The effect of this rule is to prohibit an employee from obtaining multiple transfer appointments where the total result of those transfer appointments would be to grant the employee an appointment to a classification whose maximum salary range is two or more steps higher than the maximum salary range of the employee's last list appointment. In other words, the rule prohibits consecutive transfers when the net result is to allow an employee to transfer into a promotional position without having taken a promotional examination.

² In 2002, when OIG was about to close its Rancho Cucamonga office, OIG administered a DIG examination. In August 2002, OIG granted list appointments to eight DIGs on the eligible list who had transfer appointments. In March 2003, SPB staff was informed of those list appointments by the State Controller's Office. When SPB inquired about those appointments, OIG stated that they "were made in order to enhance/broaden the individuals' potential for lateral transfers. The decision to provide list appointments was made in light of departmental layoffs and is not precluded by applicable law and/or rule." SPB staff took no action to void those appointments.

APPLICABLE LAW

Article VII, Section 1, subdivision (b) of the California Constitution provides:

In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

Government Code § 18900, subdivision (a) provides:

Eligible lists shall be established as a result of free competitive examinations open to persons who lawfully may be appointed to any position within the class for which these examinations are held and who meet the minimum qualifications requisite to the performance of the duties of that position as prescribed by the specifications for the class or by board rule.

Government Code § 18935, in relevant part, provides:

The board may refuse to examine or, after examination, may refuse to declare as eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

...(b) At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies.

Government Code § 19257.5 provides:

Where the appointment of an employee has been made and accepted in good faith, but where such appointment would not have been made but for some mistake of law or fact which if known to the parties would have rendered the appointment unlawful when made, the board may declare the appointment void from the beginning if such action is taken within one year after the appointment.

ISSUES

The following issues are before the Board for review:

1. Should the Board exercise its authority under Government Code § 18935, subdivision (b) to abolish the eligible lists created from the OIG examinations?

2. Should the Board exercise its authority under Government Code § 19257.5 to void the two list appointments made from DIG, In-Charge eligible list?

SUMMARY OF SPB STAFF'S POSITION

SPB staff recommends that the eligible lists be abolished and the appointments made from one of those lists be voided for the following reasons:

Article VII, Section 1, subdivision (b) of the California Constitution mandates that appointments in the civil service be based upon merit ascertained by competitive examination. Government Code § 18900, subdivision (a) provides that eligible lists shall be established as a result of free competitive examinations. The merit principle and Government Code § 18900 mandate that appointing powers must refrain from making any pre-determinations as to who they will or will not select for appointment or promotion until after a fair and equitable examination process has been conducted.

Government Code § 18935, subdivision (b) authorizes the Board to refuse to certify appointments from an eligible list when it determines that an examination was administered solely for the purpose of providing pre-selected transferees with list appointments in their current positions and not as a valid testing device to select meritorious candidates for promotion to vacant positions.

Because OIG administered the DIG, DIG, Senior and DIG, In-Charge examinations for the sole purpose of granting list appointments to incumbent transferees in order to enhance their ability to transfer further to new classifications in other state agencies without having to take competitive examinations for those new classifications, the examinations violated the merit principle. The Board should exercise its authority under Government Code § 18935, subdivision (b) and abolish the eligible lists. In addition, the Board should exercise its authority under Government Code § 19257.5 and void the appointments made from the DIG, In-Charge list.

By abolishing the lists and voiding the illegal appointments, the Board will not adversely impact any employees' ability to seek further legal transfers from their last list appointments or to take examinations to obtain legal promotional appointments.

SUMMARY OF OIG'S RESPONSE

On December 29, 2003, OIG submitted its Response to staff's investigative report. (A copy of OIG's Response is attached hereto as Attachment 2.)

In its Response, OIG argues that the Board should not exercise its authority under Government Code § 18935, subdivision (b) for the following reasons:

- (1) In 2000, after OIG's mandate was significantly expanded by the Legislature, OIG had an urgent need to fill 110 positions. Blending audit and

investigative duties into a single classification created the DIG classification. Given its urgent need to hire a significant number of employees into a newly created classification where few met the minimum qualifications, OIG decided to fill most DIG positions through transfer, rather than list appointment. The incumbent employees on the list have satisfactorily performed their duties in their classifications for several years. In light of these unique circumstances, the Board should refrain from exercising its authority under Government Code § 18935, subdivision (b).

- (2) Incumbent employees were not given sufficient notice of SPB's "last list appointment" policy, which prevents them from obtaining consecutive transfers that would result in a salary that is 10% or more greater than the salary of their last list appointment.
- (3) Authorizing the list appointments and subsequent transfers of the employees in this case is no more violative of the state's merit principles than other transfer practices routinely permitted by SPB.

OIG requests that SPB certify the eligible lists generated from the disputed examinations. In the alternative, OIG requests that the Board approve the transfers of those employees whose transfers would violate SPB's consecutive transfer rule.

SPB STAFF RECOMMENDATION

SPB staff recommends that the Board adopt the following resolution abolishing the eligible lists and voiding the two appointments made from those lists:

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution provides, "In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination"; and

WHEREAS, Government Code § 18900, subdivision (a) provides, "Eligible lists shall be established as a result of free competitive examinations open to persons who lawfully may be appointed to any position within the class for which these examinations are held and who meet the minimum qualifications requisite to the performance of the duties of that position as prescribed by the specifications for the class or by board rule"; and

WHEREAS, Government Code § 18935, in relevant part, provides, "The board may refuse to examine or, after examination, may refuse to declare as eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories: ... (b) At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies"; and

WHEREAS, Government Code § 19257.5 states, "When the appointment of an employee has been made and accepted in good faith, but where such appointment would not have been made but for some mistake of law or fact which if known to the parties would have rendered the appointment unlawful when made, the board may declare the appointment void from the beginning if such action is taken within one year after the appointment"; and

WHEREAS, in or about August 2003, the Office of the Inspector General (OIG) administered promotional examinations for the classifications of Deputy Inspector General, Deputy Inspector General, Senior and Deputy Inspector General, In-Charge and established the following eligible lists:

- Deputy Inspector General effective September 11, 2003
- Deputy Inspector General, Senior effective September 11, 2003
- Deputy Inspector General, In-Charge effective August 21, 2003

WHEREAS, OIG administered the examinations and established the eligible lists for the sole purpose of providing pre-selected transferees with list appointments in their current positions, and not as valid testing devices to select meritorious candidates for promotion to vacant positions; and

WHEREAS, OIG's purpose in conducting the promotional examinations and establishing the eligible lists was contrary to the merit principle embodied in Article VII, Section 1, subdivision (b) of the California Constitution and the provisions of Government Code § 18900 subdivision (a);

WHEREAS, in light of the foregoing, the Board has decided to exercise its authority under Government Code § 18935, subdivision (b) to withhold and withdraw from certification the names of all employees on the eligible lists who, at the time of examination, had permanent status in the classifications for which they applied, and to abolish the eligible lists;

WHEREAS, the Board has also decided to exercise its authority under Government Code § 19257.5 to void all appointments that may have been made from the eligible lists;

THEREFORE, BE IT RESOLVED AND ORDERED, that:

(1) Pursuant to Government Code § 18935, subdivision (b), the Board hereby withholds and withdraws from certification the names of all employees on the eligible lists for Deputy Inspector General, Deputy Inspector General, Senior, and Deputy Inspector General, In-Charge, who, at the time of examination, had permanent status in the classifications for which they applied, and abolishes those lists.

(2) Pursuant to Government Code § 19257.5, the Board hereby voids the list appointments of the two Deputy Inspector General, In-Charge that were made from the Deputy Inspector General, In-Charge eligible list that has been abolished.

(3) The Board's actions in abolishing the eligible lists and voiding the appointments shall not adversely impact the ability of the employees whose names were on the abolished eligible lists to obtain transfer appointments based upon their last list appointments or to take promotional examinations that are administered in accordance with applicable law and rules.

**STATE PERSONNEL BOARD (SPB) REVIEW OF THE DEPUTY
INSPECTOR GENERAL (DIG); DEPUTY INSPECTOR GENERAL,
SENIOR (DIG, SENIOR); AND DEPUTY INSPECTOR GENERAL, IN-
CHARGE (DIG, IN-CHARGE) EXAMINATIONS**

BACKGROUND

In October 2003, SPB staff received a complaint from an Office of the Inspector General (OIG) employee regarding administration of the DIG examination. The complainant questioned the appropriateness of the DIG examination, referring to an e-mail sent to them by an analyst in the OIG Personnel Office, that indicated that the purpose of these promotional examinations was to provide individuals already holding permanent, full-time appointments in the class, the opportunity to gain a "list" appointment. The e-mail expressed the view that there was no anticipated benefit for others to compete because the department was not in a position to offer appointments to other competitors. A similar e-mail, sent by the personnel analyst to another OIG employee, was subsequently received by SPB staff in the course of the investigation. Again, the e-mail indicated that the purpose of the examination was to only provide an opportunity for "list" appointments for those already holding transfer appointments in the class and expressing the view that no other appointments would be made from the list (see Attachment A).

In response to the complaint, SPB staff initiated an investigation to determine:

- 1. Did the department discourage or attempt to discourage, hinder or prevent candidates from competing in the examinations?**
- 2. Were the examinations scheduled and administered to address legitimate employment needs of the department?**

3. Were the examinations job-related and competitive as required by the California Constitution [Article VII, Section 1(b)] and civil service laws and rules Government Code (G.C.) § 18930 and California Code of Regulations (CCR) 198.

INVESTIGATION

The OIG is undergoing a major budget reduction that has resulted in the need to eliminate positions in the DIG, the DIG, Senior and the DIG, in Charge classifications. As a result of the budget reductions, there are no current vacancies in these classifications, and no vacancies are anticipated during the reasonable life of any eligible list created for these classes. The OIG nevertheless, scheduled and administered examinations for the DIG, the DIG, Senior and the DIG, In-Charge classifications. The final file date for these examinations was August 18, 2003. All of the examination processes had been completed and all three lists had been established at the time that SPB initiated its review. SPB immediately froze the three lists pending the outcome of the investigation. Two appointments had already been made, however, from the DIG, In-Charge eligible list. No other appointments have been made and the lists remain frozen.

The DIG list contains 15 list eligibles, including ten individuals already holding permanent appointments in the class. The DIG, Senior list contains 11 list eligibles, including three individuals already holding permanent appointments in the class. The DIG, In-Charge list had three list eligibles, including two already in the class holding permanent appointments in the class. These two individuals had already received "list" appointments from the DIG, In Charge list at the time SPB received the complaint (see Attachment A).

Did the department discourage or attempt to discourage, hinder or prevent candidates from competing in the examinations?

G.C. § 18952 provides that:

Any employee who feels aggrieved at any action taken by any superior or fellow employee in discouraging or in any manner hindering or preventing him from taking any examination or any other action which he deems beneficial to himself may appeal to the board in writing. Any such appeal or communication in connection therewith is confidential and shall not be disclosed without the consent of the employee taking such appeal. Immediately after receiving such appeal the board shall investigate and shall take such action as it deems necessary."

G.C. § 19680(a) states that it is unlawful for any person:

Wilfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or employment under this part of board rule.

G.C. § 19682 provides that:

Every person who violates any provision of this chapter is guilty of a misdemeanor. Adverse action may be taken by the appointing power, or the executive officer of the board may file charges, against a state employee who violates any provision of this chapter.

The department's personnel analyst, in response to questions regarding the exam, sent e-mails to two employees in the Associate Deputy Inspector General (ADIG) classification (potential candidates for the DIG exam). The e-mails sent to Personnel

by the potential candidates asked several questions, including a question regarding the purpose of the promotional exam.

The personnel analyst's response stated:

1. "The purpose of these promotional exams is to afford an opportunity to individuals serving an appointment in a class to gain a "list" appointment to the class. Many individuals within our agency were appointed to the class for which they are an incumbent by virtue of a lateral transfer. To gain a list appointment to the class may very well afford these folks the chance for a wider variety of options to move elsewhere."
2. "For those of you who are ADIGs, there is no anticipated benefit to compete. The agency is in no position to offer promotions (ADIG to DIG, for example). The purpose of all of this is to let DIGs get list appointments to DIG, DIGs, Senior to gain list appointment to DIG, Senior, etc."

The department's personnel analyst indicates that what he meant by the statement that, "there was no anticipated benefit to compete" was that the agency was not planning on using the lists to promote anyone¹.

All five ADIG incumbents subsequently filed applications for the DIG examination and achieved list eligibility. We note that a number of individuals in the DIG and the DIG, Senior classes did not file for the higher-level classes in the series, i.e., DIG, Senior and DIG, In-Charge examinations. It is not known if these individuals were aware of the department's purpose for administering these exams, i.e., to provide "list" appointments to individuals already in the class, or if they simply chose not to participate, given proposed position cuts in the OIG, which could diminish promotional opportunities. The

¹ The OIG intended only to reappoint certain individuals already appointed and working in these classes. No other successful exam competitors could or would be appointed since the department had no present and anticipated no future vacancies.

department's personnel analyst indicates that he did not send similar e-mails to any other candidates, including potential candidates for the DIG, Senior and/or the DIG, In-Charge examinations.

FINDING #1

While the evidence is insufficient to conclude that the e-mails sent by the Personnel Analyst actually resulted in any candidate deciding not to participate in these examinations, the language in the e-mails and the circumstance surrounding these examinations (scheduled to only appoint selected candidates) had the potential for hindering candidates participation in the examinations. We believe that the message sent to other candidates (non-incumbents) was that their participation in these examinations was an idle act and that irrespective of their qualifications they would not be appointed. This message and examinations of this character are inconsistent with our merit requirement.

ISSUE #2

Were the examinations scheduled and administered to address legitimate employment needs of the department (fill vacancies)?

Article VII, Section 1 (b), Constitution of the State of California requires that permanent appointments and promotions be based on merit as ascertained by competitive examination.

CCR § 425 permits transfers of employees between departments where the transfer is to a position in the same class or another class with substantially the same salary and designated as appropriate by the Executive Officer.

CCR § 435 provides that consecutive transfers shall not be permitted when their combined result would be inconsistent with the provisions of this article or G.C. § 19050.4.

As noted above and acknowledged by the department, these examinations were not administered to fill any present or future vacancies. The sole purpose of the examinations was to provide incumbents with "enhanced" transfer opportunities to obtain positions in other departments. The department indicates that the decision to administer the three promotional examinations was made because of substantial, proposed departmental reductions and layoffs, and the department's interest in enhancing its employees' opportunities to find jobs in other departments. Its particular interest in administering these examinations was to enhance the ability of fifteen individuals to transfer to more lucrative jobs in other agencies.

The fifteen incumbents that the OIG sought to reappoint to their current positions, transferred to their current positions in the OIG under the provisions of CCR § 425. The examinations administered by the OIG were intended to circumvent the believed impact of CCR § 435 on incumbents. The OIG believed that without a reappointment these incumbents would be:

- (1) Barred from now transferring to other State agencies because CCR § 435 prevents consecutive transfers
- (2) Limited to transferring to lower paying positions

Staff notes that CCR § 435 was intended to ensure that promotions in the State civil service occur by competitive promotional examinations as required by the California Constitution and ensure that the transfer provisions not be used to circumvent this requirement. Incumbents who transferred to positions are not barred from further transfers to other agencies. They may transfer to positions without the need for reappointments intended by these examinations as long as such transfers do not result

in promotions². In reviewing the SPB transfer rules, we note that the criteria for these transactions are primarily based on salary distinctions between classes rather than a clear definition of the constitution's promotional requirement. We propose to revise those rules to prevent further misunderstandings of the constitutional requirement. In the interim the statutes permit the Board to designate appropriate classes for transfer purposes. The OIG may request such designations from the Board on a case-by-case basis for incumbents.

FINDING #2

These examinations were not intended to fill positions but to circumvent/avoid the impact of CCR § 435. Consecutive Transfer, and to provide what the department believed were "enhanced" employment opportunities for their staff. Staff believes that use of the selection process was inappropriate and unnecessary for these purposes. The SPB transfer rules should be revised to clarify the constitutional requirement of promotions by examinations and clarify when transfers between classes are appropriate.

ISSUE #3

Were the examinations job-related and competitive as required by the California Constitution [Article VII, Section 1(b)] and civil service laws and rules

² Staff notes that in at least one instance an incumbent anticipated transferring from a working level position to a supervisory position based on a reappointment to their current positions. We believe that such a transfer would be inconsistent with the Constitution and such promotion must be accomplished by competing in an examination for the supervisor class.

(G.C. § 18930 and CCR § 198)?

Article VII, Section 1 (b), Constitution of the State of California states:

In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination. (emphasis added).

G.C. § 18930 provides that:

Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of positions for which they seek appointment...(emphasis added).

CCR § 198 states:

Ratings of education, experience, and personal qualifications shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors...(emphasis added).

Staff's review of these examinations included an assessment of the extent to which OIG personnel examination practices conform to State laws, regulations, and merit principles. This included review of exam planning activities, i.e., including the reason(s) for administering these examinations; review of the Qualifications Appraisal Panel (QAP) interview questions, rating criteria, Education and Experience rating criteria, and scoring methods; as well as certification requests, job analysis documentation, appointments, and eligible list composition. An on-site meeting was conducted to advise the department of the complaint and to obtain additional information relative to the examinations.

Deputy Inspector General (DIG)

The examination for the DIG consisted of a Qualifications Appraisal Panel (QAP) interview, weighted 100%, including three patterned questions. Fifteen candidates were interviewed and all passed. While nine scores were available to the raters, they utilized only three scores (ranks): 94, 88, and 82. The effect of the use of three scores was that all candidates were reachable. Of the 15 list eligibles, ten already hold permanent appointments in the DIG class (through lateral transfer), and five are promotional candidates. The OIG ordered an official certification list for the purpose of making 10 list appointments purportedly for the 10 individuals already in the class. This certification request was subsequently cancelled by SPB pending completion of the investigation.

Deputy Inspector General, Senior (DIG, Senior)

The examination for the DIG, Senior consisted of a QAP interview, weighted 100%, including the same three questions as asked at the lower level (DIG), plus one additional question intended to assess supervisory skills. Again, only three scores (ranks) were assigned in this examination. Eleven candidates were interviewed and all passed. Of the 11 list eligibles, three already hold permanent appointments in the DIG, Senior class (through lateral transfer appointments), and eight are promotional candidates. The OIG ordered an official certification list for the purpose of making three list appointments (again, purportedly for the three individuals already in the class). This certification request, however, was also cancelled by SPB pending completion of the investigation.

Deputy Inspector General, In-Charge (DIG, In-Charge)

The DIG, In-Charge examination was administered as an Education and Experience (E & E) examination. Three candidates participated and were placed on the list. Three

scores were assigned: 95, 90 and 85. A score of 95 was assigned if the candidate was already in the class of DIG, In-Charge. A score of 90 was assigned if the candidate was in the DIG, Senior class. A score of 85 was assigned for all other candidates who met the minimum qualifications for entry into the exam. Two of the candidates placed on the list already held permanent appointments in the DIG, In-Charge class (through lateral transfer) and one is a promotional candidate. The OIG ordered an official certification list for two appointments, resulting in "list" appointments, effective August 21, 2003, for the appointment of the two candidates already in the class. The department indicated that they did not intend to appoint the third list eligible.

The department indicates that they did not conduct a job analysis for the examinations. They indicate that the DIG and DIG, Senior exams were developed by examination consultants, using the DIG series job specification to identify the knowledges and abilities to be tested. They indicate that the QAP questions were based on actual duties performed by DIG and DIG, Senior staff and the knowledges and abilities contained in the job specification. The department states that they used the same three QAP questions for both the DIG and DIG, Senior exams for efficiency purposes in scheduling the interviews, and that the use of the same questions in series exams is not unusual. The department states that the rating criteria guided the panel to the use of only three scores: Superior, Well-Qualified, and Satisfactory. They also indicate that (1) the size of the candidate group did not warrant using the full range of nine scores, (2) that the use of three scores in exams of this size was not unusual, (3) in a small exam, it is more difficult to make fine distinctions between candidates, and (4) it is not fair to the candidates to use all 9 scores.

FINDING #3:

Staff notes there were deficiencies in all of the examinations, particularly in the areas of scoring and rating criteria. In the DIG and the DIG, Senior examinations, the small number and type of questions asked makes it difficult to determine if the selection processes provided for an effective comparative assessment of the candidates'

qualifications or the relative strength of their knowledges, skills, and abilities. Additionally, efficiency in scheduling candidate interviews should not be the basis for determining the questions to be asked; rather these should be developed consistent with the job duties of each classification and the requisite knowledges, skills and abilities required to perform at each level. Similarly, each of the interview questions had only three anchored rating scales, i.e., Superior, Well-Qualified and Satisfactory. There was no rating scale that defined Fair and Passable benchmark responses and nothing that distinguished performance within the three categories. Benchmarks provide the interview panel with a qualitative and/or quantitative means of rating candidates' responses and assist the panel in making fair, objective, reliable ratings that differentiate between candidates. Each rating benchmark covered three scores and there were no instructions provided to the raters for assigning a score that corresponded with the benchmark range. While a wider distribution of nine scores was available for use by the raters, there were no rating criteria to anchor the scores and the rating criteria were not clearly and concisely written. There are no laws or rules that authorize the use of limited scores for small candidate groups.

With respect to the DIG, In-Charge examination, an E&E process is often utilized for small candidate groups. Nevertheless, we have significant concerns regarding the rating criteria, which was based upon status within specific classifications. While there may be some support for assigning scores on this basis, i.e., presuming that such status automatically ensures performance of specific tasks and satisfactory demonstration of specific knowledges, skills and abilities required for the class, there is no documentation in the exam file to support this presumption. Additionally, it is generally recognized that status or experience in a particular class, alone, is not sufficient to allow measurement of quality, variety, or breadth of experience. On that basis, there is no evidence that this examination included a comparative assessment of the candidates' relative knowledges, skills, or abilities.

In summary, staff is concerned regarding the quality of the DIG examinations. Nevertheless, there is not sufficient evidence to demonstrate that they are not job-

related or competitive, and that they did not fairly test the candidates' qualifications and fitness for the job. On that basis, staff concludes that there is not a violation of the California Constitution (Article VII, Section 1(b) and/or civil service laws and rules (G.C. §18930 and CCR § 198).

RECOMMENDATION

- (1) Staff recommends that the DIG, the DIG, Senior and the DIG, In-Charge examinations be abolished and that the OIG be permitted to request transfer determinations from SPB for incumbents on a case-by-case basis.
- (2) The SPB regulations governing transfers between classes be revised to clarify the constitutional requirement for promotion and clarify when transfers between classes are appropriate.

ATTACHMENT A

> -----Original Message-----

> From:
 > Sent: Monday, August 11, 2003 11:21 AM
 > To:
 > Subject: DIG Exam

>
 > Since all of the ADIG's are being surplusd, I would
 > like to know the purpose of a promotional exam. Is there a benefit to us
 > being on a DIG list even though agencies are restricted to the
 > SROA/surplus list?

>
 > Also, I would like to know if this exam can be used
 > for list appointments. The reason for my question is that I just finished
 > reading the instructions for completing a state application and it states
 > that "only civil service employees who meet the deinition of a promotional
 > candidate may file for promotional examinations. All other must file for
 > open examinations." Are employees who laterally transferred considered
 > "promotional candidates?"

> -----Original Message-----

> From:
 > Sent: Monday, August 11, 2003 2:20 PM
 > To:
 > Subject: RE: DIG Exam

>
 > In answer to your questions (if I don't answer all
 > of your concerns, let me know):

>
 > 1. The purpose of these promotional exams is to
 > afford the opportunity to individuals serving an appointment in a class to
 > gain a "list" appointment to the class. Many individuals within our
 > agency were appointed to the class for which they are an incumbent by
 > virtue of a lateral transfer. To gain a list appointment to the class may
 > very well afford these folks the chance for a wider variety of options to
 > move elsewhere.

>
 > 2. For those of you who are ADIGs, there is no
 > anticipated benefit to compete. The agency is in no position to offer
 > promotions (ADIG to DIG, for example). The purpose of all of this is to
 > let DIGs get list appointments to DIG, DIG, Senior to gain list
 > appointments to DIG, Senior, etc.

>
 > 3. The language you are quoting relates to taking

> examinations. To compete in a promotional examination, an individual must
 > possess a permanent appointment within State service. That makes them a
 > promotional candidate for examination purposes. To laterally transfer to
 > another State classification, you must also have a permanent appointment,
 > but you don't have to meet the "Minimum Qualifications" of the class to
 > which you transfer. You must meet certain salary criteria (roughly, the
 > salary range of the "from" class must be within 10% of the salary range of
 > the "to" class).

>

> People who ultimately laterally transfer to a class
 > within State service must have, at one time, have gained a permanent
 > appointment within State service from an eligible list.

>

> I don't know if any of this will make sense . . . if
 > you wish to discuss this further, please let me know.

> -----Original Message-----

> From:
 > Sent: Wednesday, August 13, 2003 6:28 AM
 > To:
 > Subject: RE: DIG Exam

>

> Just one more question.

>

> An employee who transfers laterally can get a list
 > appointment on an in-house promotional exam?

> -----Original Message-----

> From:
 > Sent: Wednesday, August 13, 2003 7:04 AM
 > To:
 > Subject: RE: DIG Exam

>

> Not always . . . according to Government Code section 18935 (b), a
 > testing agency MAY refuse to examine someone who "At the time of the
 > examination has permanent status in a position of equal or higher class
 > than the examination or position for which he or she applies."

>

> My emphasis is on the word "MAY" because OIG decided to not invoke
 > this code section and allow individuals to compete for the class in which
 > they already held an appointment. The State Personnel Board has attempted
 > to force departments to stop allowing people at the same level compete for
 > exams, but the current language in the government code does not forbid the
 > practice, it only makes it optional.

>
> Therefore, at another agency, a person may be prevented from doing
> what we here at OIG are doing to benefit staff.

> -----Original Message-----

> From:

> Sent: Monday, August 18, 2003 3:19 PM

> To:

> Subject: RE: DIG Exam

>

> According to SPB (Associate Personnel Analyst), the code
> section you quoted does not apply to staff with a permanent position in
> our agency. Would you please clarify this.

> -----Original Message-----

> From:

> Sent: Tuesday, August 19, 2003 6:36 AM

> To:

> Subject: RE: DIG Exam

>

> I'm not sure what I am clarifying . . . I am saying that the code section
> is discretionary, and we are NOT applying it to staff.

>

>

>

>

FYI

-----Original Message-----

From:
Sent: Tuesday, August 05, 2003 9:51 AM
To:
Subject: RE: DIG/Sr. DIG exam

I have just received word from concerning a DIG promotional exam with a final filing date of 8-18-03. Fliers will be released tomorrow, or Thursday at the latest.

In your case, you have eligibility on the DIG list until 8-23-03, so it will be necessary to re-apply to continue that eligibility.

Please be informed that the intent of these examinations is to provide individuals with list appointments to the class to which they were appointed on a lateral transfer basis. This will enhance their ability to gain employment elsewhere. There is no intent, as I understand it, to promote anyone from the lists to be compiled.

-----Original Message-----

From:
Sent: Monday, August 04, 2003 1:59 PM
To:
Cc: = DIGs - Associate
Subject: DIG/Sr. DIG exam

Hi

Some of the staff down here in Visalia have said there will be a DIG and Sr. DIG exam offered with a final filing date of 8/18/03. First of all, can you confirm whether that information is accurate (I have not seen a flier). If so, do those of us who are already on the promotional list, need to retake the test in order to stay active on the list?

**OFFICE OF THE INSPECTOR GENERAL**

DATE: December 29, 2003

TO: STATE PERSONNEL BOARD
Policy Division
Attn: Daphne Baldwin

FROM: BRUCE A. MONFROSS
Senior Staff Counsel

SUBJECT: Response of the Office of the Inspector General to the State Personnel Board's Review of the Inspector General's Examinations - Deputy Inspector General, Deputy Inspector General, Senior, and Deputy Inspector General, In-Charge

**I.
INTRODUCTION**

Appellant Office of the Inspector General (hereinafter "OIG") submits this Response of the OIG to the "State Personnel Board's (hereinafter "SPB") Review of the OIG's Examinations - Deputy Inspector General (hereinafter "DIG"), DIG-Senior, and DIG-In Charge." This response was drafted in response to an invitation from the SPB to the OIG to submit written comments to the SPB concerning the proposed decision of the SPB Appeals Division that would, if officially implemented, invalidate the three examinations in question:

The OIG contends that the proposed decision of the SPB, as set forth in the December 5, 2003, memorandum addressed to the OIG, is incorrect and, for those reasons set forth below, should not be implemented as a formal decision of the SPB.

Arnold Schwarzeneger, Governor

II. BACKGROUND

The OIG was created by the Legislature in 1994 for the limited purpose of reviewing the policies and procedures followed by entities within the Youth and Adult Correctional Agency (YACA) in conducting investigations and audits. At that time, the OIG was a small entity housed within YACA with responsibility for conducting reviews at the request of either the agency Secretary or a member of the Legislature. During 1998 and 1999, however, the Legislature fundamentally changed the structure and mandate of the OIG, transforming the OIG into an independent agency reporting directly to the Governor and greatly expanded the Inspector General's responsibility for overseeing California's correctional agencies.

As a result of this change in mandate, beginning in 2000, the OIG began to greatly expand the hiring of employees. At that time, the OIG employed approximately 18 staff members. As a result of its newly-enacted statutory mandate and accompanying increased funding, however, the OIG was required to quickly fill approximately 110 positions to address an immediate back-log of approximately 200 complaints, with more complaints arriving daily. The Deputy Inspector General (DIG) classification, which blends audit and investigatory duties into a single classification, was created for use by the OIG during this time period. The OIG is the only state agency that employs individuals in the DIG classification.

Given the unique characteristics of the DIG classification, it would not have been practical to have conducted an examination for the class, as it is doubtful that more than a handful of candidates would have met the minimum qualifications for the classification. That is due to the fact that most applicable personnel possess either the qualifications of an investigator or the qualifications of an auditor, and it is rare that an individual would possess the qualifications of both an investigator and an

auditor. Consequently, the vast majority of OIG employees appointed to the DIG classification were appointed by means of transfer eligibility, as opposed to list eligibility.¹

In July 2003, the OIG was notified that its budget was scheduled to be reduced by approximately seventy percent, and that a large number of OIG employees, the vast majority of whom were employed in the DIG classification, would be subject to lay-off if they did not obtain employment at another state agency. Given this drastic announcement, the OIG began to look at all available means to enhance its employees' ability to obtain comparable alternate employment.

As a result, during August 2003, the OIG conducted Departmental promotional examinations for the following classifications: DIG; DIG-Senior; and DIG-In Charge.² One of the purposes for conducting the examinations was to make OIG employees who were subject to lay-off competitive for comparable appointments at other state agencies. All OIG employees who expressed a desire to participate in the examination process were permitted to do so, and no employee who took the examination scored lower than the third rank, thus making them eligible for appointment/promotion from the list. Most, if not all, of the OIG employees who participated in the examinations had been appointed to their respective DIG classification during 2000 or 2001, and had satisfactorily performed the duties of their classification for several years prior to the announced August 2003 examinations.

The examinations were deemed necessary because OIG Personnel Office staff were aware that the SPB had previously taken the position that consecutive transfers into different classifications that result in a de facto promotion for the employee would be voided. According to SPB representatives, such an impermissible de facto promotion occurs if the consecutive transfer results in the employee being appointed to a classification, the highest salary range of which is 10 percent (two-steps) or more

¹ Staff from the Department of Personnel Administration (hereinafter "DPA") worked very closely with OIG staff in creating the DIG classifications, and specifically approved the transfer of employees from their respective investigative or auditor classifications into the new classification.

² The DIG-Senior and DIG-In Charge classifications had previously been created for senior and supervisory positions.

greater than the highest salary range of the employee's last list appointment (hereinafter referred to as the "last list appointment policy").

Because the OIG is the only state agency that employs DIGs, it is the only agency with any conceivable reason for conducting a DIG examination. Being aware of the SPB's "last list appointment policy," and because the OIG wanted to afford its employees the actual benefit of the experience they gained during their employment with the OIG so that they would be better able to compete for comparable appointments into otherwise transfer-eligible classifications, the OIG determined that the only way to give its employees the benefit of their experience with the OIG was to conduct the disputed examinations.³

During September 2003, representatives of the SPB contacted the OIG Personnel Office, requesting that the OIG provide the SPB with those documents related to the above-described examinations. Shortly after this request was made, and before all applicable inquiries and disclosures had been made, the SPB rescinded the OIG's examination authority and "froze" the three examinations, thereby rendering them invalid during the relevant time period while the SPB's inquiry into the matter continued.

On December 8, 2003, the OIG received a memorandum from the SPB, dated December 5, 2003, in which the SPB stated its intent to invalidate all three of the examinations in question. The SPB further stated its intention to void any appointment of a DIG to a new classification that did not comport with the "last list appointment policy." As justification for the proposed decision, the memorandum indicated:

Staff notes that CCR § 435 was intended to ensure that promotions in the State civil service occur by competitive promotional examinations as required by the California Constitution and ensure that the transfer

³ It should also be noted that the examinees had successfully performed their OIG duties for a number of years, and were highly sought after by other state agencies once they were designated as surplus employees and were placed on the SROA list.

provisions not be used to circumvent this requirement. Incumbents who transferred to positions are not barred from further transfers to other agencies. They may transfer to positions without the need for reappointments intended by these examinations as long as such transfers do not result in promotions. [Footnote omitted.] In reviewing the SPB transfer rules, we note that the criteria for these transactions are based primarily on salary distinctions between classes rather than a clear definition of the constitution's promotional requirement. We propose to revise those rules to prevent further misunderstandings of the constitutional requirement. (Emphasis in original.)⁴

The SPB's proposed decision has, not unexpectedly, greatly affected the ability of OIG employees who had successfully completed the examination to seek alternate comparable employment with other agencies, as those employees were deemed to have only transfer eligibility as a DIG, as opposed to list eligibility as a DIG. In its December 5, 2003, memorandum, the SPB afforded the OIG an opportunity to provide a written response to the SPB's proposed decision.

For those reasons set forth below, the OIG contends that, due to the unique nature of the creation of the DIG classification and the statutory duties of the OIG, it would be remiss of the SPB not to exercise its discretionary authority and declare as "eligible" those individuals who participated in the disputed examinations, irrespective of the fact that at the time of the examination those individuals held "permanent status in a position of equal or higher class than the examination or position for which he or she applie[d]." ⁵ Such a decision is further justified due to the fact that there exists no legal authority providing state civil service employees constructive notice of the subsequent appointment restrictions placed on transfer-eligible employees by the SPB's unannounced "last list appointment policy." Finally, the OIG contends that authorizing the transfers of the individuals in question here is no more violative of state merit principles than current transfer practices routinely permitted by the SPB.

⁴ See Memorandum, December 5, 2003, *State Personnel Board's Review of the Office of the Inspector General's Examinations - Deputy Inspector General, Deputy Inspector General, Senior, and Deputy Inspector General, In-Charge*, pp. 6-7.

⁵ See Gov't Code § 18935(b).

As a result, the OIG respectfully requests that the SPB certify the disputed examinations. In the alternative, the OIG respectfully requests that the SPB approve the transfer of those few individuals whose transfers fall afoul of the "last list appointment policy."

III. DISCUSSION

A. **Given the Unique Nature of the DIG Classification, the SPB Possesses the Requisite Discretion to Certify the Examinations in Question.**

The SPB has a great deal of discretion in certifying individuals as eligible to compete in a particular examination. More specifically, Government Code section 18935 provides, in pertinent part:

The board may refuse to examine or, after examination, may refuse to declare as an eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

(b) At the time of the examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies. (Emphasis added.)

In the present case, the OIG is simply requesting that the SPB utilize its acknowledged discretionary power to certify as eligible those individuals who successfully participated in the disputed examinations. This request is made as a result of the unique set of facts present here.

As discussed in greater detail above, the DIG is a hybrid classification, synthesizing both investigator and auditor functions. As SPB staff have informally conceded, given the unique nature of the classification, it is very doubtful that conducting a DIG examination, thereby permitting the OIG to make list appointments to the DIG classification, would have proved fruitful, as very few individuals would have been able to meet the minimum qualifications for the classification. This is because most individuals perform the duties of either an investigator or an auditor. Very few people possess the requisite qualifications to initially perform the duties of both classifications. Consequently, the OIG made appointments to the DIG classification via transfer-eligibility, as opposed to list-eligibility. These

transfer-based appointments were accomplished after extensive consultation with DPA staff, and were made in conjunction with the OIG's urgent need to rapidly fill approximately 110 positions in a very short period of time.

This is quite unlike the situation surrounding the vast majority of classifications approved by the SPB, as most classifications do not synthesize the unique characteristics and qualities inherent to two or more separate classifications. Nor is there generally such an urgent need to fill as many classification vacancies as the OIG was required to fill in a very short period of time. As a result, in nearly all other cases, there exists no practical reason for the appointing authority not to conduct an examination when it is seeking to fill vacancies to a particular classification. For those reasons set forth above, however, good cause did exist in this case for the OIG not to conduct such an examination.

Similarly, good cause now exists for the SPB to certify the disputed examinations, as the OIG is merely attempting to now do that which it was essentially precluded from doing when first appointing individuals to the DIG classification - giving those individuals the benefit of a list appointment, as opposed to a transfer-based appointment. Indeed, the very language of Section 18935 (i.e., "The board may refuse to examine or, after examination, may refuse to declare as an eligible or may withhold or withdraw from certification ...") indicates that unique situations may arise that justify a decision by the SPB to certify as eligible those examination candidates whom the SPB might, under ordinary circumstances, deem to be ineligible.⁶ The OIG maintains that the circumstances of this case are sufficiently unique to justify such a decision by the SPB.

Nor would such a decision open the proverbial flood-gates and thereafter require the SPB to engage in the whole-sale certification of examinations taken by individuals who possess "permanent status in a position of equal or higher class than the examination or position for which he or she applies."

⁶ Had the Legislature intended a contrary intent, the statutory language would not contain the permissive "may" language, and instead would contain mandatory terminology, such as, "The board shall refuse to examine or, after examination, shall refuse to declare as an eligible or shall withhold or withdraw from certification ..."

Instead, such a decision would be of limited effect, and would merely authorize such certification in this case, due to the very unique nature of the DIG classification and the OIG's urgent need to rapidly fill those positions so that it could fulfill its statutorily required duties.

In addition, certifying as "eligible" those individuals who participated in the disputed examinations is further justified because SPB statutes and regulations do not provide transfer-eligible employees with the requisite notice of the limitations and restrictions inherent in the SPB's informal "last list appointment policy."

B. SPB Statutes and Regulations Do Not Provide Constructive Notice to Transfer-Eligible Employees of the Restrictions Imposed by the "Last List Appointment Policy."

The SPB has not provided transfer-eligible candidates with constructive notice that moving into a position via transfer-eligibility, as opposed to list-eligibility, may later restrict the candidate's movement into a classification with a salary range that is two-steps higher than the salary range of his/her last list appointment. Instead, applicable constitutional articles, transfer statutes and regulations are either silent or are extremely vague concerning the subject.

It is undisputed that all appointments and promotions within the state civil service must comply with the requirements of the California Constitution. Applicable Constitutional provisions provide that, "In the civil service, permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination."⁷ While the plain language of the constitution asserts that both permanent appointments and promotions shall be made on the basis of competitive examination, certain statutory and/or regulatory provisions allow current state civil service employees to transfer into a different classification even if they are not on an examination list.

⁷ Cal. Const., art. VII, § 1(b).

Title 2, California Code of Regulations, section 435 ("*Consecutive Transfers*"), provides that:
 "Consecutive transfers shall not be permitted where their combined result would be inconsistent with the provisions of this article or Government Code Section 19050.4."

Government Code section 19050.4, in turn, provides that:

A transfer, as defined in Section 18525.3, may be accomplished without examination. The board may require an employee to demonstrate in an examination that he or she possesses any additional or different requirements that are included in the minimum qualifications of the class to which the employee is transferring. (Emphasis added.)

Government Code section 18525.3, thereafter provides that:

"Transfer" means both of the following:

(a) The appointment of an employee to another position in the same class but under another appointing power.

(b) The appointment of an employee to a position in a different class that has substantially the same level of duties, responsibility, and salary, as determined by board rule, under the same or another appointing authority. (Emphasis added).

Additional SPB regulations further provide:

Transfers-General

Classes meeting the criteria established by this article shall be considered to involve substantially the same level of duties, responsibility and salary for the purposes of Government Code Section 19050.4; provided that the board or the executive officer may prohibit transfer between such classes based on a specific finding that they are in a promotional relationship. The board or executive officer may also prohibit transfers from classes that have been specifically established for limited duration positions.⁸

Transfer to Another Agency

A transfer of an employee from a position under one appointing power to a position under another appointing power may be made, if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. The effective date of such transfer shall be no later than 30 calendar days

⁸ Title 2, Cal. Code Regs., § 430 (emphasis added).

after receipt of a written request from the agency requesting the employee's service to the appointing power by whom the employee is employed, unless an earlier or later date of transfer is agreeable to both appointing powers. No other type of transaction which has the same general effect as a transfer, such as reinstatement following resignation, shall be used to circumvent the above provisions.⁹

The SPB thereafter defines the phrases "substantially the same salary range" and "promotional salary relationship, range or level" as:

Salary and Class Level Comparisons

(a) The following definitions shall apply to salary and class level comparisons made under this chapter:

(1) "Substantially the same salary range or salary level" means the maximum rate of the salary range of one class is less than two steps higher than or is the same as the maximum rate of the salary range of another class.

(2) "Promotional salary relationship, range or level" means the maximum rate of the salary range of one class is at least two steps higher than the maximum rate of the salary range of another class.¹⁰

While Section 431 references the two steps salary range of "another class," nowhere does it refer to the maximum rate of the salary range of the transfer-eligible employee's last list appointment classification. It would not be unreasonable, therefore, for the transfer-eligible employee to conclude that the "maximum rate of the salary range of another class" referenced in Section 431 refers to the maximum salary rate of the classification the transfer-eligible employee is occupying at the time of his/her transfer into the new classification, not the maximum salary range of his/her last list appointment classification.

That is particularly so in that the entire notice problem could easily be prevented if Section 431(a)(2) simply read: "'Promotional salary relationship, range or level' means the maximum rate of the salary range of one class is at least two steps higher than the maximum rate of the salary range of the

⁹ Title 2, Cal. Code Regs., § 425 (emphasis added).

¹⁰ Title 2, Cal. Code Regs., § 431 (emphasis added).

transferring employee's last list appointment class." Such a definition would then put the transfer-eligible employee on notice of the "last list appointment" restriction on consecutive transfers into different classifications. At present, however, such a simple, clearly delineated definition is lacking.

In short, there is absolutely no notice provided to the transfer-eligible employee that the "maximum rate of the salary range of another class" is actually referencing the employee's last list appointment classification. Absent such notice, it is fundamentally unfair to hold that the transfer-eligible employee either knew or should have known that his/her transfer into another classification could be negatively impacted by application of the un-announced "last list appointment policy." Fundamental fairness dictates, therefore, that employees who were appointed to a classification via list eligibility not be held accountable to the SPB's informal "last list appointment policy," absent a showing that each employee had been provided with actual notice of the restrictions and limitations inherent in the informal "last list appointment policy."

Moreover, authorizing the transfer of the few individuals in question here is actually less offensive to state merit principles than current transfer practices routinely authorized by the SPB.

C. Authorizing the Transfer of the Individual's in Question Here Would No More Offend State Civil Service Merit Principles Than Do Current Transfer Practices.

The California courts have allowed appointments in the state civil service to occur by means of transfer eligibility, without the employee having to have taken an examination for the new classification, in those cases where the examination taken by the employee for purposes of appointment to his/her initial classification was closely enough related to the duties, responsibilities and salary of the employee's new classification, such that taking a new examination would be redundant.¹¹

Current transfer practices that exist in the state civil service do not, however, comport to the requirements enunciated by the courts. Instead, the current practice allows multiple transfers, with the

¹¹ See Prof. Engineers in Cal. Gov't v. State Personnel Board (2001) 90 Cal.App.4th 678, 703, citing Noce v. Dept. of Finance (1941) 45 Cal.App.2d 5, 10.

only real criteria being that the maximum salary range of the new classification be less than two-steps of the maximum salary range of the employee's last list appointment classification, irrespective of the relationship between the duties and responsibilities of the new classification and the employee's last list appointment classification. SPB staff essentially concede as much by noting that, "In reviewing the SPB transfer rules, we note that the criteria for these transactions are primarily based on salary distinctions between classes rather than a clear definition of the constitution's promotional requirement."¹²

As a result, the following scenario is not at all unheard of in the state civil service: An individual is appointed to classification No. 1 by means of list appointment eligibility. The employee is then permitted to transfer into classification No. 2 because the maximum salary range of the new classification is less than two-steps of the maximum salary range of classification No. 1. The transfer is authorized even though the duties and responsibilities of classification No. 2 are not necessarily closely related to the duties and responsibilities of classification No.1. The employee is then permitted to transfer into classification No. 3, because the maximum salary range of the new classification is also less than two-steps of the maximum salary range of classification No.1. The transfer is authorized despite the fact that the duties and responsibilities of classification No. 3 are even more attenuated from the duties and responsibilities of classification No. 1. This process is followed until the employee is authorized to transfer into classification No. 5, the duties and responsibilities of which are not even remotely related to the duties and responsibilities of classification No. 1.

Current state civil service transfer practices do not, therefore, comport to the requirements set forth by the courts, and do little to protect state merit principles that mandate that only qualified individuals be appointed to a classification. Indeed, the fact that transfer-eligible candidates are not

¹² See Memorandum, December 5, 2003, *State Personnel Board's Review of the Office of the Inspector General's Examinations - Deputy Inspector General, Deputy Inspector General, Senior, and Deputy Inspector General, In-Charge*, p. 5. See also, Title 2, Cal. Code Regs., § 425: "A transfer of an employee from a position under one appointing power to a position under another appointing power may be made, if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer."

required to meet the minimum qualifications for the new classification, coupled with the current practice of not actually tying transfers into one classification from another based on the similarity of duties and responsibilities between the two classifications, is far more violative of state merit principles than the situation presented in the instant case. At least in the present case the duties and responsibilities of those DIGs that transferred into other classifications were actually similar to the duties and responsibilities of their new classifications, and the transferees in question had successfully performed those duties and responsibilities for a number of years.

Given the foregoing, it is readily apparent that the SPB has routinely countenanced the transfer of employees into classifications, the duties and responsibilities of which are not necessarily remotely related to the duties and responsibilities of their last list appointment classification. These transfers are permitted simply because the maximum salary ranges of the classifications are substantially similar.

If it can reasonably be said that such a practice does not violate state merit principles, then it must also logically follow that a transfer, wherein the duties and responsibilities of the employee's current classification are substantially similar to the duties and responsibilities of the new classification, does not violate state merit principles, irrespective of the fact that the maximum salary range of the new classification is not substantially similar to the maximum salary range of the employee's last list appointment. In fact, a contrary determination would implicitly indicate that, in the SPB's opinion, the salary an individual previously received in a former classification is the most important indicator of the individual's qualifications for a new classification, as opposed to the duties and responsibilities the individual is performing in his or her present classification. The OIG submits that such a determination is simply illogical.

Fortunately, in the present case most of the DIGs who participated in the disputed examinations and who subsequently transferred to different classifications at other state agencies are not immediately effected by the SPB's proposed decision because the highest salary of their new classification conforms

to the "last list appointment policy." Several OIG employees, however, are not so fortunate and either had conditional job offers withdrawn once the lists were frozen or were required to choose between taking a demotion into a new classification or be laid off from the OIG. This has resulted in a significant hardship for those employees. In addition, a number of employees have not even been considered for appointment to a different classification after the lists were frozen, due to other state agencies being fearful of having the appointment voided by the SPB due to the "last list appointment policy."

It is, therefore, indisputable that the SPB's "last list appointment policy" places transfer-eligible candidates at a distinct competitive disadvantage vis-à-vis list-eligible candidates, even though it is well established that, given current SPB-approved transfer practices, they should be treated as co-equals for merit purposes. No good reason exists for such an arbitrary, salary-based, distinction.

This unwarranted hardship is even further pronounced in the instant case, as no state agency, save for the OIG, has any incentive to conduct examinations for the DIG classification. Consequently, if the examinations in question are voided because the examinees held "permanent status in a position of equal or higher class than the examination or position for which he or she applie[d]," their ability to find comparable alternate employment will be dramatically limited. This hardship will occur through no fault of the employee, and without even constructive notice from the SPB, of the negative ramifications that might follow if an employee accepts a transfer-based appointment, as opposed to a list-based appointment.

In short, the rather arbitrary, informal policy at issue here results in the worst of both worlds - it does little to nothing to protect merit principles, while simultaneously punishing otherwise well qualified candidates for appointment

IV. CONCLUSION

Good cause exists for the SPB to utilize its discretionary authority under Government Code section 18935 and declare as eligible those candidates who participated in the disputed examinations. A rational, good-faith reason existed for the OIG not to initially conduct examinations when it was first appointing individuals to the DIG classification, as it was doubtful that most potential candidates would meet the minimum qualifications for such a hybrid classification, and as the OIG had an urgent, pressing need to fill a large number of vacancies in a very short period of time. Similarly, a rational, good faith reason existed for the OIG to conduct the disputed examinations, as it was simply attempting to create at the back end of the DIG appointment process that which it was essentially precluded from doing at the front end of the process - giving it's employees list-based appointments, as opposed to transfer-based appointments.

Certifying the examinees as eligible is further justified based on the fact that the SPB has failed to provide those individuals with constructive notice of the negative consequences that might flow from those individual's accepting transfer-based appointments, as opposed to a list-based appointment. A reasonable review of applicable laws would not put those individuals on notice as to the existence of the SPB's "last list appointment policy" and its inherent restrictions, and it is fundamentally unfair to impose those restrictions on employees without first providing them with at least constructive notice of those restrictions.

Finally, a rational review of current SPB-approved transfer processes reveals that they are fundamentally flawed, and rely almost exclusively on salary distinctions, as opposed to the individual's actual qualifications and experience, when determining whether a particular transfer violates state merit principles. Those approved practices do far more to flout state merit principles than the present case,

where there can be little to no dispute that the individual's in question are qualified to perform the duties of the classifications into which they transferred.

As a result of the foregoing, the OIG requests that the SPB certify all of the disputed examinations in question, as they were conducted for a proper purpose and as good cause exists for deeming each examinee to have been eligible to take the examination. In the alternative, the OIG requests that the SPB approve all of the disputed transfers of OIG employees into different classifications, as good cause exists for such approval.

DATED: 12/29/03

Respectfully submitted,



BRUCE A. MONFROSS, Senior Staff Counsel
for the Office of the Inspector General

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD CALENDAR MARCH 9, 2004

(Cal. 3/9/04)

MEMO TO: STATE PERSONNEL BOARD

FROM: KAREN COFFEE, Chief, Merit Employment and Technical
Resources Division

SUBJECT: Non-Hearing Calendar Items for Board Action.

Staff have evaluated these items and recommend the following
action be taken:

PAGEA. CHEMIST RANGE A, CHEMIST RANGE B, CHEMIST RANGE C,
STAFF CHEMIST AND SUPERVISING CHEMIST

201

The Department of Personnel Administration proposes establishing the Chemist Series Specification which will consist of the above. Each class within the proposed Chemist Series specification will have a 12-month probationary period, the outside MQ patterns for the Staff Chemist and Supervising Chemist will be brought into alignment to create an equitable promotional pattern for both external and internal candidates, and Alternative Range Criteria 436 will be established. In addition Alternative Range Criteria 311 and the following class specifications are proposed to be abolished; Agricultural Chemist Series, Junior Chemist, Petroleum Products Chemist Series, Public Health Chemist Series, Supervising Chemist, Bureau of Home Furnishings, and Textile Chemist I and II classes. Incumbents in these classes will be reallocated to the new Chemist class series.

February 25, 2004

TO: STATE PERSONNEL BOARD

FROM: KATHY DARLING, Staff Personnel Program Analyst
Department of Personnel Administration

DEBRA THOMPSEN, Staff Personnel Program Analyst
Department of Personnel Administration

REVIEWED BY: WAYNE KURAHARA, Program Manager
Department of Personnel Administration

ROBERT K. PAINTER, Chief, Policy and Operations Division
Department of Personnel Administration

SUBJECT: Proposed establishment of Chemist Series Specification, each class with a 12-month probationary period, reallocation of incumbents to the new Chemist class series, and establishment of Alternate Range Criteria 436. Proposed abolishment of the Agricultural Chemist Series specification, Junior Chemist class specification, Petroleum Products Chemist Series specification, Public Health Chemist Series specification, Supervising Chemist, Bureau of Home Furnishings class specification, Textile Chemist I and II class specifications; and proposed abolishment of Alternate Range Criteria 311.

SUMMARY OF ISSUES:

On behalf of all user departments, the Department of Personnel Administration (DPA) proposes to establish a new Chemist Series Specification. The individual classes within the series include Chemist, Staff Chemist, and Supervising Chemist. The class of Chemist is proposed as a deep class concept and transitions from entry to journey level. The classes will be used to perform a broad range of staff and supervisory chemistry work concerning agricultural, environmental, natural resources, or consumer protection, and environmental or public health.

The recommendation to establish this new Chemist series is the result of a classification study completed in March 2003. The March 2003 report is on file at DPA and the State Personnel Board. The purpose of the study was to determine the feasibility of consolidating four groups of specialized chemist classifications (Agricultural, Petroleum Products, Public Health, and Textile, as well as Junior Chemist) into a generalized chemist classification series. All of the specialized chemist classes are involved in performing or supervising physical and chemical analyses to make determinations on substances that impact the particular field of study under the responsibility of each department. Although the substances analyzed and the field of study may be unique to each participating department, the general methods, procedures, and tests

State Personnel Board
Page 2

involved are similar and practiced by all chemists. The minimum qualifications and progressive number of years of education and experience for each level are comparable to the four chemist series that are encompassed by the proposed Chemist series. The results of the classification analysis indicated the overall scope of work, typical tasks, and minimum qualifications could be described in one generalized chemist classification series.

In addition, a separate review of the related excluded (supervisory) classes determined consolidation was also warranted. The information for this review was collected from job descriptions, organizations charts, class specifications, excluded subject matter experts, and departmental human resources professionals.

The new consolidated Chemist Series Specification will permit the abolishment of the specialized chemist classes (Agricultural, Petroleum Products, Public Health, Textile, and Junior Chemist). Alternate Range Criteria (ARC) 311 is only applicable to movement within the Agricultural Chemist deep class. Therefore, ARC 311 is proposed for abolishment since it will no longer be necessary due to the proposed abolishment of the Agricultural Chemist Series specification and reallocation of incumbents at the appropriate level within the new Chemist series.

Currently, California Code of Regulations, Rule 433 specifically identifies the classes of Textile Chemist I and II. Therefore it is recommended, that upon abolishment of these classes, an amendment should be proposed for Rule 433 by State Personnel Board staff.

The proposed Chemist Series Specification will allow for broader recruitment and examination efforts among user departments, and provide a consolidated classification plan for the chemist classes.

CONSULTED WITH:

Jennifer Roche, State Personnel Board
Karen Coffee, State Personnel Board
Jerry Radeleff, Labor Relations Officer, DPA
Kristen Haynie, Labor Relations Consultant, California Association of Professional Scientists (CAPS)

Please refer to the attached Classification Proposal for a detailed listing of individuals/departments who also assisted or contributed to this proposal.

UNION NOTIFICATION:

In accordance with the terms of the DPA/CAPS contract, DPA has notified the union in writing of this proposal.

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CLASSIFICATION CONSIDERATIONS:

See attached proposal.

RECOMMENDATIONS:

It is recommended:

1. That the following classes be established; the proposed Chemist series specification including specifications for the classes as shown in the current calendar be adopted; and the probationary period for each class be twelve months.

Chemist
Staff Chemist
Supervising Chemist
2. That all appointments to the classes in the Chemist series specification that require a probationary period and that are effective on or after February 25, 2004, shall require service of a one-year probationary period before an employee may attain permanent status in the class.
3. That the proposed Alternate Range Criteria 436 for the class of Chemist as shown the current calendar be adopted.
4. That the following resolutions be adopted.
 - a. WHEREAS the State Personnel Board on February 25, 2004, established the deep class with alternate range levels as indicated below in Column II; and the duties and responsibilities of the corresponding alternate range levels of the deep class were substantially included in the previously existing classes (or alternate ranges of the deep class) as indicated in Column I; and

WHEREAS the knowledge and abilities required for the deep class alternate range levels indicated in Column II were substantially tested for in the examination held for the classes listed in Column I: Therefore be it

RESOLVED, That any person with civil service status in the classes (or alternate range of the deep class) indicated in Column I on March 2, 2004 shall be reallocated to the corresponding alternate range of the deep class as indicated in Column II and hereby granted the same civil service status in that class without further examination; and be it further

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RESOLVED, That any existing employment lists other than reemployment lists established for the classes indicated in Column I shall be used to certify to fill vacancies in the deep class indicated in Column II as directed by the Executive Officer of the State Personnel Board until such lists are abolished, exhausted, or superseded by lists for the class indicated in Column II and any persons on existing reemployment lists for classes in Column I shall also be placed on reemployment lists for the class in Column II until expiration of their eligibility on reemployment lists for classes in Column I.

<u>Column I</u>	<u>Column II</u>
Junior Chemist Agricultural Chemist, Range A	Chemist, Range A
Agricultural Chemist, Range B Petroleum Products Chemist I Public Health Chemist I Textile Chemist I	Chemist, Range B
Agricultural Chemist II Petroleum Products Chemist II Public Health Chemist II Textile Chemist II	Chemist, Range C

- b. WHEREAS Title 2, California Code of Regulation Section 431 states "Unless otherwise provided by resolution of the board, the maximum rate of the lowest salary range currently authorized for a class is used to make salary comparisons"; and

WHEREAS alternate ranges within the new class of Chemist are being established to replace those of the previously existing classes of Junior Chemist, Agricultural Chemist, Agricultural Chemist II, Petroleum Products Chemist I, Petroleum Products Chemist II, Public Health Chemist I, Public Health Chemist II, Textile Chemist I and Textile Chemist II; and

WHEREAS placement in each alternate range of the class of Chemist represents recognition of a higher level of knowledge, skill, ability, experience, or eligibility which each appointee can acquire through experience in the class of Chemist or comparable or higher level classes; and

WHEREAS as the result of a permanent appointment to each alternate range, an appointee gains status in the range to which he/she is appointed as though each range is a separate class by qualifying for placement in that range through transfer, reinstatement, demotion, or satisfying the alternate range criteria: Therefore be it

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RESOLVED, That salary Ranges A, B, and C for the class of Chemist may be used individually as if each represents the salary range of a separate class to make salary comparisons for discretionary actions between the class of Chemist and other classes; and be it further

RESOLVED, That for the class of Chemist the maximum currently authorized for Range C of the class shall be the salary range used to make salary comparisons for mandatory actions.

- c. WHEREAS the State Personnel Board on February 25, 2004, established the class indicated in Column II; and the duties and responsibilities of this class were substantially included in the previously existing classes as indicated below in Column I; and

WHEREAS the knowledge and abilities required for the class indicated in Column II were substantially tested for in the examinations held for the classes listed in Column I: Therefore be it

RESOLVED, That each person with civil service status in the classes in Column I on March 2, 2004, be reallocated to, and hereby granted, the same civil service status without further examination in the class in Column II; and be it further

RESOLVED, That any existing employment lists other than reemployment lists established for the classes indicated in Column I shall be used to certify to fill vacancies in the class in Column II as directed by the Executive Officer of the State Personnel Board until such lists are abolished, exhausted, or superseded by lists for the class in Column II and any persons on existing reemployment lists for classes in Column I shall also be placed on a reemployment list for the class in Column II until expiration of their eligibility on reemployment lists for the classes in Column I.

Column I

Agricultural Chemist III (Specialist)
Public Health Chemist III (Specialist)

Agricultural Chemist III (Supervisor)
Petroleum Products Chemist III
Public Health Chemist III (Supervisor)
Supervising Chemist, Bureau of Home
Furnishings

Column II

Staff Chemist

Supervising Chemist

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5. That the following classes/class series be abolished March 2, 2004:

- Junior Chemist
- Agricultural Chemist
- Agricultural Chemist II
- Agricultural Chemist III (Specialist)
- Agricultural Chemist III (Supervisor)
- Petroleum Products Chemist I
- Petroleum Products Chemist II
- Petroleum Products Chemist III
- Public Health Chemist I
- Public Health Chemist II
- Public Health Chemist III (Specialist)
- Public Health Chemist III (Supervisor)
- Textile Chemist I
- Textile Chemist II
- Supervising Chemist, Bureau of Home Furnishings

6. That Alternate Range Criteria 311 be abolished March 2, 2004.

B. CLASSIFICATION CONSIDERATIONS

Instructions: Complete only if Concept (Part A) approved by DPA. Include headings (Background, Classification Considerations, etc.) if using additional paper. Only complete applicable questions (i.e., provide enough information to support the proposal). Respond to each of these questions and return with signed-off transmittal to your DPA and SPB Analysts.

BACKGROUND

1. Provide some historical perspective about the organizational setting of the subject class(es) and the needs that this request addresses.

A classification study of Unit 10 Chemist Classifications was conducted by representatives of Department of Personnel Administration (DPA) and California Association of Professional Scientists (CAPS) as a joint union/management team in accordance with Section 17.3 of the Unit 10 2001/2003 contract. The chemist classifications reviewed included the Agricultural Chemist Series, Junior Chemist, Petroleum Products Chemist Series, Public Health Chemist Series, and Textile Chemists. The purpose of the study was to evaluate the existing class specifications, including duties, responsibilities, and requirements, and determine the feasibility of consolidating the specialized chemist classes into one series.

As a result of the findings and recommendations in the study, it was determined that the four groups of specialized chemist classifications (including Junior Chemist) could be consolidated into one generalized Chemist Series, encompassing the classes of Chemist, Staff Chemist and Supervising Chemist. This was based on the study's findings that the proposed Chemist series describes the performance of physical and chemical analyses to make determinations on substances that impact a department's particular field of study. The specification is written in general terms which describes the standard methods, procedures and tests, practiced by all chemists. The minimum qualifications and progressive number of years of education and experience for each level is comparable to the four chemist series that will be encompassed by the proposed Chemist series. A college degree with a major in chemistry, biochemistry, toxicology, or a closely related scientific discipline is warranted due to the professional nature of the work. Additionally, recognition for either a master's or doctorate degree will be allowed as a substitution for a portion of the experience. An overwhelming majority of incumbents meet the educational requirements for future movement through promotional exam to the higher levels. The overall data collected from the job descriptions (duty statements) indicates that scope of work and typical tasks performed are consistent with the proposed generalized Chemist series specification.

In addition, due to a natural progression through the classes at the entry through the journey level, a deep class concept is warranted for the class of Chemist. This is based on the study's findings that the scope of work meets a single test of fitness for all alternate range levels and incumbents gain increased competence at each level in performing the duties based on experience and educational background. Automatic movement is supported by management and the scope of work.

It is anticipated that consolidating the chemist classes will make movement of incumbents between departments easier, enable departments to share examination lists, and recognizes chemistry methodologies and expertise is similar among departmental applications.

Currently, eight departments use the various chemist classifications; however, Department of Health Services (DHS), Department of Food and Agriculture (CDFA), and Department of Toxic Substances Control (DTSC) are the primary users. The Agricultural Chemist series is used by CDFA and Department of Fish and Game (DFG). The Petroleum Products Chemist series is used only by CDFA and the Textile Chemist series is unique to Department of Consumer Affairs (DCA). The Public Health Chemist class series is used by DHS, DTSC, Department of Water Resources (DWR), Air Resources Board (ARB), and State Water Resources Control Board (SWRCB). There are currently no departments that use the Junior Chemist classification.

The Public Health Chemists at DHS work in the following programs:

Food and Drug Laboratory Branch (FDLB) - which provides laboratory services for food and drug safety. The FDLB conducts chemical analysis of food and drug samples for pesticides, heavy metals, comparison drug screens, filth, and bacteria

Environmental Health Laboratory – which provides laboratory services to assist in the control of harmful environmental factors.

Sanitation and Radiation Laboratory – which provides laboratory services to test water for inorganic contaminant metals such as lead and arsenic, anions such as nitrate, fluoride, and cyanide, organic contaminants such as pesticides and gasoline products. The Radiochemistry group performs radiochemical separations, identification and quantification of naturally occurring and man-made radionuclide in all types of environmental samples.

Genetic Disease Laboratory of the Genetic Disease Branch – conducts chemical analyses for genetic and congenital disorders.

In DTSC, Public Health Chemists are used in the Environmental Services Laboratory. Chemists identify and measure concentrations of toxic chemicals in many different media including air, water, soil, hazardous waste streams, and biological or human tissues.

The SWRCB, DWR and ARB use Public Health Chemists to provide chemical analyses on various environmental factors (e.g. air and water).

The CDFA and DFG both use Agricultural Chemist series. At DFG, the chemists work in the Petroleum Chemistry Laboratory of the scientific program of the Office of Spill Prevention and Response. The chemists provide support in the form of chemical analyses, literature reviews and determinations of regulatory jurisdiction for potential hydrocarbons, other chemicals, or mixtures of unclear source. At CDFA, chemists are used in the Division of Inspection Services, Center for Analytical Chemistry which provides chemistry services impacting crop protection, food safety, consumer protection, farm worker safety, and agricultural emergency response activities.

In CDFA's Division of Measurement Standards, Petroleum Products Chemists (PPC) are used in its Petroleum Products Program to perform analysis of petroleum and automotive products.

DCA's Bureau of Home Furnishings utilizes the Textile Chemist classes to conduct specific and focused home furnishings or textile product related chemical analyses.

CLASSIFICATION CONSIDERATIONS

2. What classification(s) does the subject class(es) report to?

Typically, the Chemist will report to a Supervising Chemist. In some departmental settings, the Chemist may report to other supervisory classes including, but not limited to: Environmental Biochemist, Research Chemist, Senior Biologist Supervisor, Senior Environmental Scientist, or Research Scientist Supervisor I.

The Staff Chemist and Supervising Chemist may report to a variety of supervisory/managerial classes, including but not limited to: Environmental Biochemist, Research Chemist, Agriculture Program Supervisor III, Research Agricultural Chemist, Chief Branch Public Health Laboratory, Environmental Program Manager I (Supervisory), or Research Scientist Supervisor I or II.

3. Will the subject class(es) supervise? If so, what class(es)?

The class of Supervising Chemist will have supervisory responsibility. Incumbents in the supervisory classes will typically supervise the subordinate class of Chemist. In some departmental settings, laboratory technicians and assistants may also be supervised.

4. What are the specific duties of the subject class(es)?

The three chemist classifications, Chemist, Staff Chemist and Supervising Chemist are used to perform a broad range of staff and supervisory chemistry work concerning agricultural, environmental, natural resources, or consumer protection, and environmental or public health. Typical tasks focus on performing or supervising chemical analyses to identify the concentration of substances that may be constituents, adulterants, contaminants, or potentially hazardous chemicals in the environment, food, consumer products, biological tissues and fluids, hazardous waste, or industrial and agricultural commodities. Incumbents provide scientific chemical expertise and leadership in providing consultation and analytical determinations to Federal, State, and local officials for the enforcement of laws relating to consumer, industrial, and agricultural commodities and in the identification and control of contaminants and pollutants in California's environment.

A summary of levels descriptions are as follows: (See proposed specification for additional detail).

CHEMIST

This class is the entry, intermediate, and full journey level of the series. Range A is the entry and first working level of the class. Under close supervision, incumbents perform a variety of the less difficult and responsible professional chemistry work within a laboratory, office, or field setting. Following detailed instructions and specific procedures, incumbents perform chemical, physical, or biological analyses. Work at this level is characterized by a reliance on detailed instructions and assistance from lead persons and supervisors in the application of proven techniques and methodologies to assigned work.

Range B is the intermediate working level of the class. Under general supervision, incumbents perform a variety of responsible professional chemistry work of average difficulty within a laboratory, office, or field setting. Incumbents perform chemical, physical, or biological analyses, research, surveys, investigations, inspections, and studies of average difficulty. Work at this level is characterized by a reliance on proven techniques and methodologies.

Range C is the full journey level. Under direction, incumbents perform a variety of responsible professional and complex chemical work within a laboratory, office, or field setting. Incumbents independently perform complex chemical, physical, or biological analyses, research, surveys, investigations, inspections, and studies. Incumbents allocated to this level perform a variety of tasks, including the more responsible, varied, and complex assignments; and consult and advise public and private entities.

STAFF CHEMIST

The Staff Chemist is the specialist level of the series requiring scientific expertise above the full journey level. Under direction, incumbents independently identify problems, develop courses of action, and conduct the most complex and innovative chemistry work, including investigations, inspections, and studies on issues of major importance to the employer, and do other related work. At this level, incumbents represent the department at public meetings and conferences and serve as an expert witness as necessary. Incumbents may be assigned lead responsibility for a specific project, program, function, or area of expertise.

SUPERVISING CHEMIST

The Supervising Chemist is the first level supervisor. Under general direction, incumbents plan, organize, supervise, and direct the work of a small to medium group of professional chemists and technical staff in a laboratory or program unit. Incumbents research, evaluate, and implement new analytical methods and procedures, oversee and perform complex chemical and physical analyses, and prepare related reports. The Supervising Chemist has

additional administrative responsibilities including overseeing laboratory supply purchases and involvement in budget preparation, operational plans and equipment specifications.

5. What is the decision-making responsibility of the subject class(es)?

Incumbents in the Chemist class are required to use good judgment and make decisions involving chemical analyses. As incumbents progress through the alternate ranges of the Chemist class based on experience and education, the complexity of the decision-making responsibility is amplified due to the difficulty of the work performed and increased level of independence.

Staff Chemist incumbents make independent decisions or critical assessments involving extremely complex and difficult chemical analysis investigations or studies. Scientific recommendations may impact sensitive areas of chemical analysis methodology development, and the State's agricultural, environmental, natural resources, or consumer protection, and environmental and public health. Incumbents at this level also have decision-making responsibility as representatives of the department in State and Federal interagency workgroups and multifaceted stakeholder committees.

Supervising Chemist incumbents oversee a variety of work of subordinate professional chemist staff and make decisions related to chemistry program management, including planning, budgeting, and staffing. Programmatic decisions made at this level typically relate to the application of departmental policy or standards and the technical competence of the work of subordinate staff.

6. What would be the consequence of error if incumbents in the subject class(es) did not perform their jobs? (Program problems, lost funding, public safety compromised, etc.)

Inadequate performance could cause financial losses to individuals, businesses, and government entities or could result in endangering California's agriculture, public health, environment, natural resources or consumer product industry. Inadequate performance may also adversely impact the credibility of agriculture, public health, consumer, environmental protection and resource management agencies.

7. What are the analytical requirements expected of incumbents in the subject class(es)?

The proposed Chemist classifications will perform a broad range of staff and supervisory chemistry work concerning agricultural, environmental, natural resources, or consumer protection, and environmental or public health. Incumbents perform or supervise chemical analyses to identify the concentration of substances that may be constituents, adulterants, contaminants, or potentially hazardous chemicals in the environment, food, consumer products, biological tissues and fluids, hazardous waste, or industrial and agricultural commodities. Incumbents assist in and conduct studies, assess the results, and prepare scientific reports, papers, or plans. Chemists are required to analyze situations accurately and adopt effective courses of action based on scientific methods. The majority of work performed requires the interpretation and application of rules, regulations, policies, and requirements of the State and Federal programs. The scientific assessment work performed by incumbents' increases in complexity and sensitivity based on the level of the Chemist class within the series. In addition, the supervisory class is required to evaluate and oversee the chemical analyses and recommendations conducted by subordinate staff.

8. What are the purpose, type, and level of contacts incumbents in the subject class(es) make?

All levels of Chemists typically advise or consult with Federal, State, and local government staff involved in agricultural, environmental, natural resources, or consumer protection, and environmental and public health issues, and may have contact with the public to provide information, and may serve as a technical witness in a court or administrative setting.

At the Staff Chemist and Supervising Chemist levels, incumbents may have regular contact with high level government officials, the legislature, various boards, commissions, regulatory agencies, private businesses, or the courts on sensitive and controversial issues as an expert witness.

NEED FOR NEW CLASS (if necessary)

9. For New classes only: What existing classes were considered and why were they not appropriate?

In reviewing the scope of work, it was determined that the existing class specifications for the identified chemist classes (Agricultural, Public Health, Petroleum Products, Textile) were outdated. The class concept for the various chemist classes included performing or supervising physical and chemical analyses to make determinations on substances that impact the particular field of study under the responsibility of each department. Although the substances analyzed and the field of study may be unique to each participating department, the general methods, procedures, and tests involved are similar and practiced by all chemists.

The minimum qualifications of the various chemist classes were also generally comparable with the exception that the experience required was specific to a particular specialty. The proposed Chemist series requires the same type of professional chemistry experience for each equivalent class level; however, the requirements described are more general to encompass the multiple chemist series.

Based on the conclusion of the class study conducted, it was determined that the overall scope of work, typical tasks, and minimum qualifications could be described in one generalized chemist classification series. A separate review of the related excluded (supervisory) classes determined consolidation was also warranted.

The proposed Chemist Series Specification will allow for broader recruitment and examination efforts among the eight user departments, and provide a consolidated classification plan for the chemist classes.

MINIMUM QUALIFICATIONS

10. What are the proposed or current minimum qualifications of the subject class(es), and why are they appropriate? (Include inside and outside experience patterns.)

The proposed minimum qualifications for the new Chemist Series Specification are patterned from the existing Chemist classifications that are being collapsed into this new series, which include a Bachelor's or advanced degree with a major in chemistry, biochemistry, toxicology, or a closely related chemistry discipline or a major in a scientific discipline from a recognized institution with a total of 18 semester units in specific chemistry classes. The Chemist requires education (four year degree) only. In addition, incumbents will progress through the ranges based on Alternate Range Criteria (ARC) 436. (Incumbents will be appointed to Range A if they do not meet the Range B or C criteria.) Movement to Range B will occur after one year of satisfactory experience in the California state service performing duties comparable to Chemist, Range A; or two years of comparable professional chemistry experience outside of the California state service. Possession of a master's degree in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution will substitute for the required experience. Movement to Range C will occur after two years of satisfactory experience in the California state service performing duties comparable to a Chemist, Range B; or three years of comparable professional chemistry experience outside of the California state service. Possession of a master's degree in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution may be substituted for one year of experience; or possession of a doctorate in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution may be substituted for two years of the experience. This is appropriate because the scope of work meets a single test of fitness for all alternate range levels and incumbents gain increased competence at each level in performing the duties based on experience and educational background.

The Staff and Supervising Chemist require experience in addition to education. In the promotional pattern, the requirements are two years of experience in the California state service performing duties comparable to those of a Chemist, Range C. The outside pattern requires five years of increasingly responsible professional experience as a chemist in laboratory analysis, research, management, planning, regulation, or investigation, including responsibility for the development or implementation of analytical methods using complex instrumentation or research projects; or for the direction of the work of a chemical or analytical laboratory staff. This is appropriate based on the previous minimum qualifications established for the existing high level specialist, and supervisory chemists, and the degree of responsibility assigned at these levels.

At the Staff level, the comparable classes are Public Health Chemist III (Specialist) and Agricultural Chemist III (Specialist). The inside pattern for the Public Health Chemist III (Specialist) is 2 years. The Agricultural Chemist III (Specialist), requires 1 year experience for the inside pattern. Both classes require four years of increasingly responsible chemist experience for the outside pattern.

At the Supervising Chemist level, the comparable classes include the Public Health Chemist III (Supervisor), Agricultural Chemist III (Supervisor), the Petroleum Products Chemist III, and the Supervising Chemist, Bureau of Home Furnishings. The comparable classes require 1 year for the inside pattern, with the exception of the Public Health Chemist III (Supervisor) which requires 2 years for the inside pattern. All of the comparable classes require 4 years of outside experience with the exception of the Supervising Chemist, Bureau of Home Furnishings, which requires 3 years of outside experience.

The review of the existing classes indicated some discrepancies between the progressive number of years required to progress to that level between the inside and outside patterns for the series. Therefore, in an effort to ensure consistency and fairness for candidates from either inside or outside State service, adjustments were made to the proposed Chemist series to ensure that both candidate groups would require the same progressive number of years. An additional factor of consideration included the dominate numbers of Public Health Chemists that will move to this Chemist series, in which the minimum qualifications are higher than the other comparison classes. The chemist study group, consisting of management, working chemists, the union, and departmental human resources/selection staff, unanimously agreed that the required number of years of experience was warranted at the higher end (2 years inside and 5 years outside) given the high expectation of work and ability at the Staff and Supervisory levels.

PROBATIONARY PERIOD

☐ Six Months

11. If a probationary period other than six months is proposed, what is the rationale?

It is recommended that a twelve (12) month probationary period be established for these professional scientific chemist classes, both rank and file and supervisory.

The type of work performed by the proposed Chemist series at all levels includes specialized scientific chemical knowledge, the ability to apply scientific knowledge, and the work has various degrees involving consequence of error. This period will allow adequate time for incumbents to demonstrate their knowledge and abilities in the scientific chemical work and for management to properly evaluate employee job performance.

In addition, the Supervising Chemists require the twelve (12) month probationary period due to the supervisory nature of the class concept, which involves planning and directing work and evaluating the performance of others. This period also provides sufficient time to evaluate incumbents performance in a supervisory capacity.

STATUS CONSIDERATIONS (see additional information in Part D).

12. What is the impact on current incumbents?

Incumbents currently serving probation periods will continue their existing probation requirement (from their former classification) with no negative impact. New appointments to the newly established series will be required to serve twelve months probation. Incumbents meeting the Chemist ARC will be moved to the appropriate range upon eligibility by the employing department.

13. Will current employees move by examination, transfer, reallocation, split-off, etc.? Explain rationale.

Incumbents in existing classes of the Junior Chemist, Public Health Chemist Series, Textile Chemist I and II, Supervising Chemist, Bureau of Home Furnishings, Petroleum Products Chemist Series and Agricultural Chemist Series will be reallocated by Board action into the appropriate new class within the new Chemist Series Specification. It has been determined the duties and responsibilities of these classes are substantially included in the new Chemist Series Specification at the various class levels.

CONSULTED WITH

14. In addition to the departmental contacts listed on the cover sheet, list the names and affiliations of persons who were consulted during the development of this proposal.

Jim Catania, Chief, Human Resources, Air Resources Board
 Sandra Mayorga, Personnel Officer, Department of Consumer Affairs
 Joan Bettati, Personnel Officer, Department of Fish and Game
 John Turner, Environmental Program Manager, Department of Fish and Game
 Kathy Henry, Associate Personnel Analyst, Department of Food and Agriculture
 Pam Fitch, Agricultural Chemist III (Specialist), Department of Food and Agriculture
 Cynde Jones, Personnel Officer, Department of Food and Agriculture

Steve Mauch, Director, Inspection Services, Department of Food and Agriculture
 Michael Cleary, Director, Measurement Standards, Department of Food and Agriculture
 Sandy Gonzalez, Associate Personnel Analyst, Department of Health Services
 Christopher Rogers, Public Health Chemist I, Department of Health Services
 Lavonne Coen, Personnel Officer, Department of Health Services
 Sheryl Brooks, Personnel Officer, State Water Resources Control Board
 Ivory Mitchell, Associate Personnel Analyst, Department of Toxic Substances Control
 Martin Snider, Public Health Chemist III (Specialist), Department of Toxic Substances Control
 Phil Amen, Personnel Officer, Department of Toxics Substances Control
 Dr. Bart Simmons, Department of Toxic Substances Control
 Greg Rowsey, Personnel Officer, Department of Water Resources

CALIFORNIA STATE PERSONNEL BOARD**SPECIFICATION****CHEMIST****Series Specification**

(Established _____)

SCOPE

<u>Schem</u> <u>Code</u>	<u>Class</u> <u>Code</u>	<u>Class</u>
TG05	8060	Chemist
TG10	8068	Staff Chemist
TG15	8070	Supervising Chemist

DEFINITION OF SERIES

This series specification describes three chemist classifications used to perform a broad range of staff and supervisory chemistry work concerning agricultural, environmental, natural resources, or consumer protection, and environmental or public health. Incumbents perform or supervise chemical analyses to identify the concentration of substances that may be constituents, adulterants, contaminants, or potentially hazardous chemicals in the environment, food, consumer products, biological tissues and fluids, hazardous waste, or industrial and agricultural commodities; assist and consult on collection of field samples; use, modify, and develop methods for chemical, physical, or biological analysis; evaluate laboratory equipment and procedures; regulate public and commercial laboratories; review and evaluate data from internal or external sources; conduct literature searches; perform quality assurance; check apparatus and procedures used by field staff; provide consultation and analytical determinations to Federal, State, and local officials for the enforcement of laws relating to consumer, industrial, and agricultural commodities and in the identification and control of contaminants and pollutants in California's environment; interpret results of laboratory analyses and other findings; prepare data for court cases and act as a technical witness; write papers for publication; prepare reports; manage data archives and information systems; and perform other related work.

FACTORS AFFECTING POSITION ALLOCATION

Level, variety, and complexity of assigned work; independence of action; degree of public and interagency contact; amount of supervision exercised or received; degree to which decisions are sought and accepted by top management; reporting relationships; extent of impact; and consequence of error.

DEFINITION OF LEVELS

CHEMIST

This class is the entry, intermediate, and full journey level of the series. Range A is the entry and first working level of the class. Under close supervision, incumbents perform a variety of the less difficult and responsible professional chemistry work within a laboratory, office, or field setting. Following detailed instructions and specific procedures, incumbents perform chemical, physical, or biological analyses; prepare standard and reagent solutions and samples for analysis; conduct less difficult surveys, investigations, inspections, and studies; draft preliminary reports and routine correspondence; perform basic maintenance of equipment and laboratory instrumentation; answer questions from the public of a routine nature; perform quality control and assurance checks; serve as a technical witness; and do other related work. Work at this level is characterized by a reliance on detailed instructions and assistance from lead persons and supervisors in the application of proven techniques and methodologies to assigned work.

Range B is the intermediate working level of the class. Under general supervision, incumbents perform a variety of responsible professional chemistry work of average difficulty within a laboratory, office, or field setting. Incumbents perform chemical, physical, or biological analyses, research, surveys, investigations, inspections, and studies of average difficulty; prepare standard and reagent solutions and samples for analysis; maintain equipment and laboratory instrumentation; troubleshoot equipment problems; write preliminary reports and routine correspondence; answer questions from the public of a routine nature; prepare regulatory and compliance documents; perform quality control and assurance checks; serve as a technical witness; and do other related work. Work at this level is characterized by a reliance on proven techniques and methodologies.

Range C is the full journey level. Under direction, incumbents perform a variety of responsible professional and complex chemistry work within a laboratory, office, or field setting. Incumbents independently perform complex chemical, physical, or biological analyses, research, surveys, investigations, inspections, and studies; prepare standard and reagent solutions and samples for analysis; write final reports; prepare regulatory and compliance documents; operate and maintain equipment and laboratory instrumentation including the more complex laboratory equipment; prepare nonroutine correspondence; answer routine or difficult questions from the public; perform quality control and assurance checks; serve as a technical witness; and do other related work. Incumbents allocated to this level perform a variety of tasks, including the more responsible, varied, and complex assignments; consult and advise public and private entities.

Incumbents at this level often independently develop and implement new and advanced techniques and methodologies. Incumbents may be assigned lead responsibility for a specific project or assignment.

STAFF CHEMIST

The Staff Chemist is the specialist level of the series requiring scientific expertise above the full journey level. Under direction, incumbents independently identify problems, develop courses of action, and conduct the most complex and innovative chemistry work, including investigations, inspections, and studies on issues of major importance to the employer, and do other related work. Incumbents operate and maintain the most complex equipment and laboratory instrumentations; plan and conduct research; originate and evaluate experimental methods; make interpretative analyses of data; prepare reports and papers for internal use and external publication; represent the department at public meetings and conferences; and serve as an expert witness as necessary. Incumbents may be assigned lead responsibility for a specific project, program, function, or area of expertise.

SUPERVISING CHEMIST

Under general direction, incumbents plan, organize, supervise, and direct the work of a small to medium group of professional chemists and technical staff in a laboratory or program unit. Incumbents research, evaluate, and implement new analytical methods and procedures, oversee and perform complex chemical and physical analyses, and prepare related reports; ensure quality assurance and laboratory safety; select and train staff; evaluate and make recommendations on staff performance; oversee the purchase laboratory supplies; prepare equipment specifications; assist in budget preparation; prepare or make recommendations on operational plans; and perform other related work.

MINIMUM QUALIFICATIONS

ALL LEVELS:

Either I

Education: Possession of a Bachelor's or advanced degree with a major in chemistry, biochemistry, toxicology, or a closely related scientific discipline from a recognized institution. (Admission to a master's or a doctoral degree program in chemistry, biochemistry, toxicology, or a closely related chemistry discipline shall be considered to meet these education qualifications.)

Or II

Education: Possession of a Bachelor's or advanced degree with a major in a scientific discipline from a recognized institution with a total of 18 semester units in general chemistry, quantitative analysis, and

Chemist Series

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organic chemistry with related laboratories. (Two years professional experience performing duties as a chemist, as defined in the scope of this specification, may be substituted for the required coursework.)

CHEMIST

Education as indicated above. (Registration as a senior in a recognized institution will admit applicants to the examination, but they must produce evidence of a degree before they can be considered eligible for appointment.)

STAFF CHEMIST
SUPERVISING CHEMISTEither I

Experience: Two years of experience in the California state service performing duties comparable to those of a Chemist, Range C.

Or II

Experience: Five years of increasingly responsible professional experience as a chemist in laboratory analysis, research, management, planning, regulation, or investigation, including responsibility for the development or implementation of analytical methods using complex instrumentation or research projects; or for the direction of the work of a chemical or analytical laboratory staff. (Two years of this experience must be at a level of responsibility equivalent to that of a Chemist, Range C, in the California state service. Possession of a Master's Degree in chemistry, biochemistry, toxicology, or a closely related scientific discipline from a recognized institution may be substituted for one year of the required general experience; possession of a Doctorate in the above-named disciplines from a recognized institution may be substituted for two years of the general experience.)

KNOWLEDGE AND ABILITIES

CHEMIST

Knowledge of: Fundamentals of organic, inorganic, analytical, and physical chemistry and biochemistry; principles, procedures, instruments, and equipment used in quantitative and qualitative analyses; quality control and assurance; toxic and physical effects of compounds and substances; applicable laws, rules, or regulations; statistics, report writing, and research methods and procedures; and personal computer and related office and instrument software.

Ability to: Communicate effectively; perform accurate chemical analyses following standard to complex methods; set up, adjust, calibrate, trouble-shoot, and maintain instruments; analyze and interpret test information; use, modify, or develop analytical procedures for specific needs; prepare and present evidence in court; testify as a witness; participate in research studies; prepare reports and papers for presentation or publication; analyze situations accurately and take effective action; maintain accurate records; inspect laboratories and make recommendations; use a personal computer and related office and instrument software; and learn, interpret, and apply applicable laws, rules, and regulations.

STAFF CHEMIST

Knowledge of: All of the above, and characteristics, properties, and uses of a wide variety of agricultural, industrial, and consumer chemicals and products; hazardous materials; most complex instrument methodology and analyses; and research, development, and alternate test methods.

Ability to: Select and modify the most complex instruments and other equipment; develop new and modify existing analytical methods and procedures; coordinate quality control and assurance programs; plan, conduct, and direct research studies; perform the most difficult and complex chemical and related physical analyses; prepare reports and papers for internal distribution and official publication; provide information to assist with investigations and prosecutions of violations of State and Federal laws and regulations; act as an expert witness; and act as a lead chemist.

SUPERVISING CHEMIST

Knowledge of: All of the above, and principles and practices of effective supervision; budgeting process and techniques; operational planning; and a supervisor's responsibility for promoting equal opportunity in hiring and employee development and promotion, and for maintaining a work environment that is free of discrimination and harassment.

Ability to: All of the above, and plan, organize, supervise, and direct the work of a staff of professional chemists and technical assistants; select and train staff; analyze complex situations accurately and adopt effective courses of action; ensure quality assurance and laboratory safety; establish and maintain cooperative relationships with departmental representatives and other agency

representatives; oversee the purchase of laboratory supplies; prepare equipment specifications; assist in budget preparation; prepare or make recommendations on operational plans; and effectively promote equal opportunity in employment and maintain a work environment that is free of discrimination and harassment.

Class History

<u>Class</u>	<u>Date Established</u>	<u>Date Revised</u>	<u>Title Changed</u>
Chemist		--	--
Staff Chemist		--	--
Supervising Chemist		--	--

ALTERNATE RANGE CRITERIA 436CHEMIST

Established _____

Experience or education used to meet the minimum qualifications or alternate range criteria requirements shall not be used for subsequent movement through the Alternate Range Criteria.

Range A. This range shall apply to incumbents who do not meet the Range B or Range C criteria.

Range B. One year of satisfactory experience in the California state service performing duties comparable to Chemist, Range A; or two years of comparable professional chemistry experience outside of the California state service. Possession of a master's degree in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution will substitute for the required experience.

Range C. Two years of satisfactory experience in the California state service performing duties comparable to a Chemist, Range B; or three years of comparable professional chemistry experience outside of the California state service. Possession of a master's degree in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution may be substituted for one year of experience; or possession of a doctorate in chemistry, biochemistry, toxicology, or a closely related chemistry discipline from a recognized institution may be substituted for two years of the experience.

When the requirements for the particular criteria are met and upon recommendation of the appointing power, the employee shall receive a rate under the provisions of Department of Personnel Administration Rule 599.676.